

**Response to memo date October 6, 1996
from Charles Acton**

COMMENT 1: This is an expression of opposition to the project and does not raise an environmental issue. The EIR clearly states in the "Land Use and Relevant Planning" section that the adjacent cities - Irvine and Lake Forest - have every opportunity through ordinance to control the types of land uses which the commentator finds objectionable.

**Response to letter dated October 6, 1996
from Susan H. Miller**

- COMMENT 1:** No association was contacted regarding this EIR. Because of the significant controversy over this issue, the data was collected from unaligned sources, such as data bases prepared for the real estate industry. It would have been questionable, had an interested party with real estate experience been contacted with the data, to use such data as fact, since one would not be able to separate the personal interests of the party contacted from the actual accuracy of the anecdotal data. This is why the marketing and real estate evaluations are not based on anecdotal data but rather closings.
- COMMENT 2:** The socioeconomic effects of the jail were considered in the EIR at Section 5.21, even though diminution in property value is not an impact reviewable under CEQA. However, the County included this data in part to explore whether there was any basis for the controversy raised by the opponents to the project, and secondly to demonstrate to an apprehensive public that the County has actually invested effort examining this issue.
- COMMENT 3:** This is anecdotal data. This type of effect is not relevant under CEQA because there is no evidence to support the viewpoint that this causes some sort of physical effect in the area. It is simply the decision of a perspective home purchaser to select one area over another.
- COMMENT 4:** This is an expression of opinion similar to the comments previously presented in the letter. The letter makes reference to a three-page attachment which is unsigned and not attributed. The following response to that attachment is offered below.

Response to attachment to Susan Miller letter

- COMMENT 1:** Please refer to the response of comment 1 of Dr. Paul Hurt, as this comment is identical to that comment.
- COMMENT 2:** Please refer to the response to comment 2 of Dr. Paul Hurt.
- COMMENT 3:** Please refer to the response to comment 3 of Dr. Paul Hurt.
- COMMENT 4:** Please refer to the response to comment 4 of Dr. Paul Hurt.
- COMMENT 5:** Please refer to the response to comment 5 of Dr. Paul Hurt.

COMMENT 6: Please refer to the response to comment 6 of Dr. Paul Hurt.

COMMENT 7: Please refer to the response to comment 7 of Dr. Paul Hurt.

COMMENT 8: Please refer to the response to comment 8 of Dr. Paul Hurt.

**Response to letter dated October 1, 1996
from Colleen E. Costello**

COMMENT 1: This comment is an expression of opinion and opposition to the project. The County has no intention of changing the date of the public meeting of the Board of Supervisors on November 5. The remainder of the comments have been raised elsewhere in these Responses to Comments. The Board of Supervisors meeting is at most 4 hours (including travel time). The polls are open 12 hours.

Response to letter dated October 7, 1996
from The Irvine Company

- COMMENT 1: The commentor is correct that it is the County's objective to design jail buildings to look less institutional and more like office or modern industrial buildings. The County further desires to be compatible with the Irvine Spectrum building design to the extent that compatibility can be achieved without compromising security. Towards this end, the County has proposed in the EIR several mitigation measures, including numbers 31, 32, and 33. These measures act to direct the design of the building in a manner compatible with the adjacent industrial park.
- COMMENT 2: Comment so noted. The EIR does provide factual foundation for an informed decision.
- COMMENT 3: Bus shelters are to be installed by the Orange County Transportation Authority in connection with the establishment of a bus stop in this area, if operational funds exist. Additionally, private companies often wish to establish shelters in exchange for advertising space. Since it is premature for OCTA to establish routing so far in advance of the occupation of the jail, the EIR is responsible in indicating continued work with OCTA on this issue. In order for the Orange County Transportation Authority to identify the bus stop and bus routing in this area the jail needs to be closer to its point of opening. The County typically works with OCTA to establish new service when it builds this type of facility (DEIR 564, page 181). The County will cooperate in the establishment of bus shelters to match those in Irvine Spectrum and hereby adds a mitigation measure to the project mitigation to fulfill this objective. However, the full implementation of such mitigation measure is outside control of the County of Orange and within the control of the Orange County Transportation Authority. However, the County agrees to cooperate to the extent feasible to add this mitigation.
- COMMENT 4: Structures will be no closer than 10 feet from the southerly property line when construction drawings are implemented. However, it is infeasible to setback buildings 20 feet from the property line if they are over 40 feet in height. The only building which will exceed 40 feet in height is the 5-story staff parking structure. It has been the experience of the County that industrial parks such as Irvine Spectrum eventually become high-rise office parks. Such was the occurrence in the Irvine industrial complex west before, during and after its transition to the Irvine Business complex. The jail buildings are not out of scale with the surrounding development, are setback considerably from Irvine Boulevard, and in most cases are abutting property in Pacific Commercentre which is at a

greater elevation than the jail buildings. Therefore this suggestion for cross-section and for further setbacks is rejected. There are no indications that the buildings will not be compatible with Irvine Spectrum's buildings, and in view of the fact that there is only a 5 foot difference in height between the maximum height in Irvine Spectrum now and the height of the jail parking structure adjacent to the Irvine Spectrum, it would not appear that there is a significant impact in any event.

COMMENT 5: The plant types shown for the Alton street scape are those shown for Alton Parkway. The Alton street scape pallet comes from a combination of a list from Irvine Spectrum and the Alton Parkway project report and associated construction documents. However, this comment will be taken into consideration further in connection with the development of a landscape plan in accordance with condition 31.

COMMENT 6: Exhibit 16 is not to scale. A review of Exhibit 13 shows that the jail buildings where this perimeter fence would occur are quite a bit more than 38 feet from the Alton Parkway back of curb. Nonetheless, this will be taken into consideration in connection with the compliance with mitigation measure 31. The wall placement has to place interest of security and patrol at the forefront, but there should be no difficulty in meeting this objective in this case.

COMMENT 7: This mitigation measure is hereby accepted and mitigation measure number 32 will be revised. However, mitigation measure 32 does indicate that the buildings shall be similar in appearance to the south administration building at Theo Lacy which is virtually identical to the description presented in the mitigation measure.

COMMENT 8: This mitigation suggestion is accepted. Mitigation Measure 34 will be revised to integrate this thought.

COMMENT 9: The County of Orange *accepts* this measure. This is used at Theo Lacy Jail, where the identification on the sign is "Theo Lacy Facility".

COMMENT 10: It is agreed that the addition of the referenced words "and business" might make this requirement more comprehensive, but there is no impact shown as a result of the requirement. The area is subject to a variety of noises now during the business day, and the business area are not utilized to any great degree in the evening. Therefore, this mitigation measure is not considered to add any additional mitigation. No public address systems or other audible signal systems are even proposed at this site, and on completion of the project, those which are being used at the present time will be removed.

- COMMENT 11: The commentor suggestion is for a very highly defined type of lighting fixture which is common in the Irvine Spectrum area. "Dramatic architectural lighting" is not to be considered for a jail, although it is not uncommon in the Irvine Spectrum area. Every effort will be made to match and be compatible with the lighting that is incorporated into Irvine Spectrum, and this is part of the design process for the jail.
- COMMENT 12: The types of facilities mentioned are not anticipated to be located on the site in the location mentioned in any event, and even if they were, would be handled through the landscape plan. Utility lines are undergrounded in this area.
- COMMENT 13: The commentor has not drawn the correct conclusion from the EIR. Mitigation Measure 48 pertains to all fee programs which occur in the area. A comprehensive identification of those fee programs is presented in Appendix J of the Technical Appendices of the EIR. The County has three fee programs in which the Musick facility expansion site is located: the Foothill Circulation Phasing Program, the Foothill/Eastern Transportation Corridor Road Fee Program and the Santiago Road Fee Program. Payment of fees is conditioned upon project approval. Additionally, Measure M calls for the establishment of fee programs where fee programs do not exist and there are deficient intersections. Therefore, although the County of Orange allows the exemption of the Musick Jail facility expansion project, as a government-owned facility, the County has voluntarily agreed to establish a fee program and pay fees into that program on a fair-share basis. This is due to the fact that it can be ascertained that the project contributes some traffic to these intersections. Conversely, the suggestion that the project participate in fees for the Irvine Unified School District was declined due to the inability of the project to affect schools. This is discussed in detail at DEIR, pages 182 and 183.
- COMMENT 14: A transportation management plan is required in Mitigation Measure 25.
- COMMENT 15: See response to Comment 4 in the OCTA letter dated September 26, 1996.
- COMMENT 16: See Response to Comment 1 in the OCTA letter dated September 26, 1996.
- COMMENT 17: The interim EIR analysis predicted that Alton Parkway would be extended. However, the Draft EIR also specifically indicates that Alton Parkway extension is not necessary for this project (Exhibits 31, 32, 33 and 34 of the DEIR), even if the whole project was implemented without the Alton Parkway extension. The traffic contribution of this project is

so small that Alton Parkway's extension is not necessary. The EIR also points out that, so long as the South County Municipal Court is located southerly of this site, the demand for buses will be in the direction of the south, and not to the north northeast, which is the direction of extension for Alton Parkway.

COMMENT 18: Funding sources exist for the interim Alton Parkway extension improvements. The Alton Parkway extension would be under construction at this time were it not for the necessity of a cleanup on the Reuse Plan area. The amount of funding for the Alton Parkway extension in the County Capital Projects Budget, while not covering the total costs of the extension in its current amount, will cover the costs of a half-section or an interim improvement of Alton Parkway. However, as noted in the response to Comment 17, the Alton Parkway extension is not necessary for this project in any event.

COMMENT 19: The intersections in Irvine Spectrum referenced in Mitigation Measure 46 appear to have sufficient right-of-way to implement the suggested improvement without affecting landscaping. For example, 46.a and 46.c (in part) are nonstructural improvements simply converting the type of lane already in existence. Similarly, Mitigation Measure 46.d is a signal adjustment. Only 46.b and a portion of 46.c deal with physical improvements beyond what currently exists. Since these are not yet designed, it is not possible to identify with precision the landscaping or entry treatments that may be affected; however, from a visual inspection, it appears that sufficient room exists to implement these improvements without affecting landscaping or entry treatments.

Response to letter dated October 7, 1996
from Al Gamarra

- COMMENT 1: The comment period for this EIR was 45 days, even though because of the exigent circumstances in the jail system, the project would have probably qualified for a shortened review period under CEQA of only 30 days. Therefore, the project is regarded as having had a more than adequate review time.
- COMMENT 2: The EIR did take into account the latest traffic statistics by conducting counts prior to the traffic study.
- COMMENT 3: Please see the discussion of social and economic affects in the foreword to these responses to comments. The October 8, 1996 edition of the *Los Angeles Times* business section indicates that Lake Forest median prices have stayed exactly the same as in September of 1995.
- COMMENT 4: This comment is not correct. There is a specific project alternative considering locating a jail on the El Toro Reuse Plan beginning at page 211 of the EIR. Although the County staff of the Local Redevelopment Authority have recommended denial of the reconveyance, the EIR also observes it is premature to completely reject this alternative since discussion on the Reuse Plan are still ongoing. The Board of Supervisors may elect to choose a different option with respect to the Reuse Plan and the location of a jail at the site. However, there are serious obstacles to locating the jail on the Reuse Plan in enough time to meet the needs for jail facilities, since the Reuse Plan property will not be available for approximately three years for the commencement of construction. This significantly delays the jail facility.
- COMMENT 5: At the present time, as the EIR indicates, the releases occur on a 24-hour basis. However, this is largely because the jail system is severely overcrowded. Were the jail system to be at a reasonable capacity, there would be more flexibility in the time and nature of the release.
- The second portion of this comment is not correct. The types of bookings which occurred at the facility were not principally misdemeanors, as can be seen from a profile of the crimes presented in the EIR. A crime does not have to be a felony to be dangerous. A large portion of misdemeanors are considered violent misdemeanors and are not cited and released, but rather kept in the jail.
- COMMENT 6: A detailed analysis occurs in the EIR. This information came from the County Counsel's office which has worked on a bond arrangement, and

a discussion of the constraints begins at page 209. In addition, a detailed response is given to the letter from Supervisor Marian Bergeson, and the reader is referred to that response for further clarification.

COMMENT 7: This comment is an expression of opinion concerning the project. The consultant contracted to do the EIR never "belittled" homeowners. Jails do appear to be an emotional issue, as many of the letters on this Draft EIR indicate. The media does not assist in the public's understanding of jails by sensationalizing the types of activities that occur in state and federal prisons, where hard core criminals are incarcerated, and not differentiating these from a County jail system. The economic impact — or the absence of it — was the subject of a highly professional study for this EIR which is in complete concurrence with other studies of similar type, both within Orange County and outside of Orange County.

**Response to letter dated October 7, 1996
from Joseph G. Hower (unsigned)**

- COMMENT 1:** As noted elsewhere in this Responses to Comments, the tables referred to in this comment were not used to justify any particular population for the jail expansion at Musick. There are significant arrests in the South County area commensurate with the amount of population. In fact, the EIR, page 201, considers an alternative which would reduce the size of the Musick Jail facility to accommodate that number of inmates necessary to serve the area within 10 miles of the geographic center of South Orange County. This would be the equivalent of approximately 2,800 beds, inclusive of the 1,200 inmates already accommodated at the site. This is a little less than half of the number of beds being proposed at the facility. However, as explained elsewhere in these Responses to Comments, the real reason that the jail is expanded with the number of beds proposed is the size of the facility and the fact that it can accommodate the expansion to the year 2006.
- COMMENT 2:** The maximum security housing units of the jail system operated in Orange County — which is what is proposed at this site — focuses on securing individuals by individuals, pairs, or small groups so that control is not ineffectuated through large staff to inmate ratios. The staff-to-inmate ratio utilized at the Orange County jail system is commensurate with the type of facility, which is designed for a lower staff to inmate ratio.
- COMMENT 3:** The studies around the Theo Lacy facility actually exist and cover a multi-year period and they were, therefore, referred to in the EIR, but it was not necessary to refer to them in the EIR in that there was a specific study prepared for this area. Moreover, the consultant preparing the study, Dr. Rocky Tarantello, is a recognized expert in real estate economics as is evidenced by his resume at the back of the report. He has prepared several reports on valuation around jails and is well acquainted with the types of considerations in determining property value.

**Response to letter dated October 7, 1996
from the Office of the Sheriff-Coroner**

COMMENT 1: Comment so noted. This comment acknowledges the Sheriff's concurrence as a responsible agency, in all of the proposed mitigation measures.

COMMENT 2: This is a statement of fact from the Orange County Sheriff in his capacity as the chief law enforcement officer in the County. It corroborates the information in the EIR regarding the importance of expansion of jail facilities and the need for additional maximum security housing. No environmental issues are raised.

In addition, attached to the letter from the Orange County Sheriff is a letter from Charlotte Boyter, Chief Deputy of the Corrections Division of the Riverside County Sheriff's Department. This letter, dated September 16, indicates that there are no beds available in the Riverside County incarceration system for out-of-county inmates.

**Response to letter dated October 7, 1996
from City of Santa Ana**

- COMMENT 1:** This comment indicates a concurrence with the conclusion in the EIR concerning expansion of the jail in Santa Ana. As indicated in the EIR, the Executive Director of the Planning and Building Agency of the City of Santa Ana indicates that the physical arrangement of established neighborhoods to the north, east and west of the main jail complex would be substantially affected by the establishment of the jail in the sense that the neighborhoods would need to be demolished in order to establish the jail.
- COMMENT 2:** This comment is an elaboration of Comment 1, indicating the established residential neighborhood in the 12-acre area between the Main Jail complex and Bristol that would need to be eliminated. The cumulative loss of housing in the area contributes significantly to the overcrowded conditions of housing in the City of Santa Ana. The maintenance of lower cost housing is a significant part of the City's compliance with the State-mandated housing element.
- COMMENT 3:** This comment indicates that the existing sewer system serving the area would need substantial upgrades in order to accommodate the expansion. Although the letter from the Irvine Ranch Water District on the EIR indicates there will be expansion necessary to the overall sewer system in the vicinity of the Musick Jail beyond 2,850 inmates, there is expansion planned in that area over time in any event. In Santa Ana no expansion is proposed. Therefore, not only a highly expensive project would need to be undertaken in this area, a very disruptive construction project would need to be undertaken, together with a connection to the system in the Orange County Sanitation District. These factors contribute to the rejection of the alternative of expanding the Main Jail complex in Santa Ana at this time.
- COMMENT 4:** Additional drainage improvements would be necessary due to the involvement of new impervious surface. Although these improvements are mainly a function of cost, the degree of cost associated with these improvements is a significant consideration to the implementation of jail beds, since the jail beds would not even reach half the needed expansion for a considerable degree of cost.
- COMMENT 5:** This is an expression of opinion by the City of Santa Ana and is acknowledged.

COMMENT 6: This comment indicates a concurrence with the EIR's conclusion that mitigation measures reduce impacts of the Musick Jail to a level of insignificance.

COMMENT 7: The concurrence in the assessment for the transport and release of Musick facility inmates at the Intake and Release Center in Santa Ana, in exchange for appropriate mitigation, is appreciated. This is an example of an agency agreeing to accept burden from another facility in an appropriate context.

**Response to letter dated October 17, 1996
from the City of Tustin**

COMMENT 1: This letter expresses the City of Tustin's continued opposition to the location of any jail expansion at the Tustin base. Although the City of Tustin is quite correct about its objections, CEQA does not permit the County to overlook a ostensibly feasible site for a jail in the EIR analysis merely because of the objection of the jurisdiction.

**Response to postcard (undated) - received October 7, 1996
from M. Power Giacoletti**

COMMENT 1: This comment is an expression of opposition to the jail expansion and does not raise any environmental issues, except with respect to a reference to the air quality. The reader is referred to the Air Quality section of the EIR.

**Response to letter dated October 7, 1996
from Christine Aschenberg**

COMMENT 1: This comment expresses the commentor's opposition to the jail, raising issues of the integrity of visitors to inmates and the appearance of the jail. These comments have been presented and responded to elsewhere.

**Response to Letter dated October 7, 1996
from the City of Lake Forest**

Foreword:

The Department of Corrections is a state agency responsible for constructing state prison facilities in California. Over the years, the typical approach of the Department of Corrections for prison facilities that they must build or expand is to first approach the legislature and obtain a complete statutory exemption from CEQA. The Department of Corrections has obtained this exemption for the California Men's Colony in San Luis Obispo, the Kings County-Corcoran Prison, the Kings and Amador County Prisons, and the Riverside and Del Norte County Prisons. This has allowed these prisons to be brought on line. Yet since there is no exemption from CEQA for county jail facilities, regardless of how overcrowded they are or whether there have been court orders against overcrowding, counties must seek to establish jails by complying with CEQA. This is particularly an issue for Orange County, since Orange County is third in population in the state yet 49th (or 50th if Cleveland National Forest is excluded) of 58 counties in geographic size in this state.

This letter from the City of Lake Forest takes exception with virtually every section, page and statement in the Environmental Impact Report. Notably, however, the letter produces absolutely no evidence to contradict the Environmental Impact Report, as will be shown in the County's painstaking comment-by-comment response.

It is indeed unfortunate that a state law, now over 26 years old, that was crafted by the legislature with the intent of protecting the physical environment, to maintain high quality ecological systems for the enjoyment of natural resources in the state, and to prevent the elimination of fish and wildlife species due to man's activities can be subverted into a lightning rod for opposition to the project.

Nonetheless, the County of Orange has provided a detailed, good faith and reasoned analysis of the comments presented herein. The length of this response is necessary in order to expose the County's intent to fulfill a good faith compliance with CEQA, and also to attempt to explain, once again, how the data in the EIR shows there will be no significant adverse environmental impacts to this project, and the County has made every attempt to scour its geographic area and the area outside this county for alternative sites for this facility.

COMMENT 1: This is a summary comment criticizing the EIR and accusing the EIR of being a "sales brochure." The County strongly disagrees with this

comment and will endeavor to document each and every reason why this disagreement is valid in the response to these comments.

COMMENT 2: As will be detected from the response to these comments herein, the County does not agree there are serious defects in DEIR 564, has added no substantive information to 564 justifying recirculation under the California Environmental Quality Act, and therefore, will not recirculate this EIR. The City's admonition regarding its intent to seek a judicial determination of the adequacy of the environmental review of the proposed project is noted.

COMMENT 3: The comment is incorrect. First, the Musick Jail expansion is not the "largest correctional facility in the State of California." The Peter Pitchess jail facility in Los Angeles County has 15,000 inmates in one facility *alone*. However, it should come as no surprise to the commentor that jails in Orange County do not have small populations. Orange County is a jurisdiction of somewhere around 2.5 million people, the third largest jurisdiction in the state behind Los Angeles and San Diego counties.

Furthermore, as the EIR amply documents, the existing residences are 700 feet away from the *existing* property boundary of the Musick Jail. The EIR states that the separation between the residences and the jail building, at the closest point upon completion of the project, will be 1,225 feet or just slightly less than ¼ mile (DEIR 564, page 79).

Finally, the allegation that the jail is being built on "one of the most valuable parcels of County-owned property" is incorrect. The property is valued at \$1 million rental value, and is severely restricted from use by the Certificates of Participation. Clearly, the only remedy in a case of default on a restricted property is the right to receive rent. Because the property is occupied by a jail, the property does not have the same freedom of use under the Certificates of Participation as would possibly occur on other County properties. Therefore, its value is as a jail.

Contrary to the statement in the comment, no where in the EIR is the statement made that this is the "cheapest alternative available to the County today." Neither is a cost of "\$1 billion" stated for the expansion of this jail. The commentor provides no evidence of how this number was derived.

COMMENT 4: "Simple common sense" might be a very good way to arrive at conclusions in some areas of human endeavor, but it is not what CEQA requires. The County has provided numerous technical studies at significant expense so that perceptions and conjecture concerning

environmental impact can be avoided. The EIR is an unbiased, factual document with which the commentor does not agree. However, the mere fact of the commentor's disagreement does not cause the EIR to be a "biased, results-driven whitewash."

COMMENT 5: The commentor has selectively chosen one alternative out of a quite lengthy 1986 EIR to stand for the proposition that impacts of a medium and maximum facility are negative. A few points need to be made to show that the commentor's viewpoint is not well taken.

First, in 1986 when the Musick facility EIR was certified, there were no studies of escape risks for the jail system. Indeed, the maximum security IRC was opened in January, 1988. This was the first maximum security housing building that was installed at the County of a new design, similar to the one proposed at the Musick site and constructed at the Theo Lacy site in Orange. Until that time, and given the limited fencing around Musick, it would possibly have been a correct statement to say that the risk of escapes would be greater, since at that time the County did not have a construction arrangement for medium and maximum security that limited escape to the degree it now has. Furthermore, the 1986 Musick expansion EIR did not have any of the opportunity to gauge the actual performance of the maximum security housing buildings with respect to escapes. Several times in letters from other commentors, it has been suggested that it is highly important to look at actual operation of a facility as opposed to speculating as to how the facility might or might not perform.

Now that both the Intake and Release Center in Santa Ana and the Theo Lacy facility (opened in 1993) are operational, a study could actually be made of the performance of the facilities with respect to escapes. This was done. Therefore, new information of better quality than was physically available in 1986 can be used to describe whether, in fact, there is a mere apprehension for public safety, or whether this is, in fact, an impact. Therefore, the conclusions in the EIR are justified.

The statement that the County only changed its intent with respect to Musick six months ago is inaccurate. As the EIR amply documents, the Board of Supervisors abandoned the Gypsum Canyon jail site in late 1991 on a four-to-one vote. At the same time, the Board initiated a Short-Term Jail Solutions Report. That Short-Term Jail Solutions Report, approved by the Board in January, 1992, *specifically identifies* the Musick site for expansion of the jail, finding only that the Musick site is inappropriate for expansion of the jail on the short term because of the fact that more recent environmental documentation would be necessary. Bear in mind that at the time the Board made this decision,

environmental documentation had been recently completed for Theo Lacy Jail in Orange. Only as to the expansion would more environmental documentation have to be undertaken. Therefore, it is incorrect to say that the use of Musick as a jail site is a matter of recent occurrence; the Musick site, *at 100 acres in size*, has been consistently evaluated by the Board, the Sheriff's Department and supporting County agencies for an expansion of the jail since 1991 and the abandonment of the Gypsum Canyon jail site.

COMMENT 6: The errors in this comment have been previously corrected in the response to Comment 3.

With respect to the County's Initial Study, it specifically states there are no locally designated species of interest on the site, and indicates the "Biological Resources" section of the EIR will discuss the on-site and surrounding biological habitats drawing from extensive County studies in the area. These County studies include recent studies in connection with the NCCP, as reported in the EIR. It would be very difficult to find a less environmentally redeeming site from a biological resource standpoint than the Musick site. With the exception of the attention to the NCCP, the City of Lake Forest's response to the NOP on July 3 also does not request this information. The Department of Fish and Game letter the commentor relies on to such an extent is a standard letter received on virtually every Notice of Preparation issued to the Department of Fish and Game. The letter is written in such a way that it calls for an assessment if there are biological resources. There are no biological resources of significance on this entire property. The Department of Fish and Game, although directly sent an Environmental Impact Report for review, did not comment. Furthermore, the County's NCCP biological resources surveys, relied upon in the EIR as indicated, do not depict any biological resources of significance on the property. Therefore, it is hard to imagine how this would be a defect in the Environmental Impact Report.

While it might be true that "any student of CEQA knows that such a *[biological]* survey is the starting point of any environmental analysis," experienced CEQA practitioners know the Environmental Quality Act does not require evaluation of an impact area if: a) it has already been evaluated somewhere else, or b) it is foreseeable there are no environmental impacts. CEQA focuses only on those areas having environmental impacts.

Finally, the EIR does not rely on the fact there is no further development at El Toro-MCAS. The EIR does what is required by CEQA — it incorporates a document that is readily available to the

public by reference to stand for cumulative impact on air quality. Clearly, the jail has so little impact on air quality that, taken individually or cumulatively, there is no significant effect.

COMMENT 7: Equally incredible, the commentor has overlooked the several statements in the EIR that indicate the absolute maximum population for the jail. Beginning at page 6, the EIR states the largest feasible population which is operable at the facility on a long-term basis is 7,584 inmates. It goes on to say the crowded/emergency scenario is 7,968 inmates. Again, on page 35, the EIR specifically states that the *absolute maximum* population at the jail is 7,584 beds in short-term emergency conditions, and an additional 384 inmates can be held at the facility for 60 days or less. The EIR goes on to explain the characteristics of an emergency situation, the fact that Musick Jail would consist of an infinite number of interim inmate populations and classification profiles within the 7,584 number, and provides a definition of "rated" or "crowded" in terms of capacity in order to help the reader in case the reader encounters those terms. What DEIR 564 does *not* do is simply analyze the jail on the basis of rated beds only. Therefore, there is no relationship between the Katella-Douglass EIR and the Musick Jail EIR analysis in this area.

COMMENT 8: The first part of this comment is an expression of opinion by the commentor. The second part of the comment derives from a report from the County Administrative Office to Honorable James Smith, Presiding Judge of the Orange County Superior Court in 1994, responding to the Board's and County Administrative Office's response to a Grand Jury report. The report concurs with the Grand Jury's recommendation that the Board continue to seek sites to expand the jail facilities. The County Administrative Office's position at that time is that the long-term plan would be undertaken when funding became available. However, this type of statement does not confine the Board of Supervisors' right and ability to commence a project and its CEQA evaluation whenever the Board deems it appropriate to do so. CEQA does not require that a project justify its own financial feasibility before it is proposed. The CEQA process must begin when a "project" within the definition of the law is proposed. In other words, when the County Board of Supervisors indicates their intent to approve or proceed with a project, that is the time the CEQA review begins. It is believed that the commentor's position derives from a misunderstanding of CEQA in this area. Furthermore, the commentor points to no section of the California Environmental Quality Act or its Guidelines that requires a demonstration of financial feasibility for the construction of the jail before it is even proposed and evaluated in CEQA.

Finally, the commentor's assertion that it is possible the Environmental Analysis in DEIR 564 will be outdated by the time the funding is available is incorrect. The concept of outdated environmental analysis has no place in CEQA except with respect to Master EIRs and Civic Plan EIRs. The §21166 of the California Environmental Quality Act governs when a new EIR Negative Declaration must be prepared, and this is the only set of laws that govern this decision.

COMMENT 9: This is a bold assertion on the commentor's part. It is unsupported by any evidence. The EIR provides substantial evidence and support of the infeasibility of the project alternative the commentor is referring to, and in addition, the response to the letter from Supervisor Marian Bergeson further explains the practical inability of the County to use this site to either trade or offset the cost of the purchase of another site.

COMMENT 10: This comment is an expression of the commentor's opinion regarding the County Board of Supervisors' wisdom in proceeding with the approval of a jail approved, including the CEQA in the Environmental Impact Report certified without having first established the funding source.

What the commentor does not point out is that this is never done in CEQA. Financial feasibility is only one factor to consider in the rejection of alternatives. Financial feasibility has absolutely nothing to do with the project itself. Were the commentor's suggestion to be extended to its logical conclusion, private development applicants proposing a project would have to submit to the governmental agency a present ability to finance the entire project before a project EIR could be commenced. This is never done, nor would it be possible to do this in most cases since the governmental agency's approval of the private development project is often one of the significant factors taken into account by a lending entity to finance the project. There is no difference in a publicly initiated project with respect to funding. In order to qualify for funding, the County must demonstrate to the funding source that the project is approved. The County cannot blindly seek funding on ephemeral suggestion that the project might be built at some future time.

COMMENT 11: Again, the correction to the commentor's statement regarding the largest incarceration facility in the State of California was in the Response to Comment 3. There is no showing that seven months is an unreasonable period of time to prepare an Environmental Impact Report. In fact, even state law within CEQA requires that, where an Environmental Impact Report is required on a private development project, it must be completed within a year. The outside parameter of one year to complete an EIR in a private development project by inference, includes the assumption that EIRs can be prepared in considerably less time. If an

agency is qualified (as is the County of Orange) in CEQA, and has competent technical assistance in the EIR preparation, there is no reason to believe an EIR cannot be finished in four months on a project that has as few physical environmental impacts as the proposed project.

In fact, this is particularly true where the project site has been already environmentally evaluated through a prior EIR, has been consistently farmed and used as a jail and is in general, hardly a pristine site.

Finally, although the commentor may only be aware of the Sheriff's Department considering this project seven months ago, this is not, in fact, the case. Since the 1991 abandonment of the Gypsum Canyon Jail facility, and particularly after the bankruptcy and bankruptcy recovery plan, it is obvious the County will use its own facilities. In fact, Final EIR 558 for the Theo Lacy Jail expansion specifically considers the alternative of expanding the jail at the Musick site (FEIR 558, page 306). The only reason the alternative is rejected, is that further planning and design studies would need to be done to determine the actual feasibility. That EIR goes on to state as follows:

"However, the Musick facility has been suggested from time to time as a location for further jail expansion, and it is anticipated that it would become part of a larger program."

Further, the EIR states with respect to this alternative:

"Therefore, while this alternative is rejected for a near-term jail due to the absence of a Certified EIR dealing with a maximum security, cells building facility, it remains as a feasible long-term option to be further evaluated."

This EIR was initially published on May 26, 1995 and was certified on August 8, 1995. No one at that time complained that this EIR had received an extremely rapid review period, even though a little over 2½ months was expended between the May 26 issuance of the Draft EIR and the certification on August 8. Roughly 2½ months will have passed between the August 22 issuance of the Draft EIR for the Musick Jail expansion and the Board of Supervisors' contemplated action on November 5. Therefore, contrary to the commentor's statement, this is an ordinary period of time for a jail EIR on a site that has little redeeming environmental value.

COMMENT 12: The commentor is incorrect, both with respect to any deficiencies in DEIR 564 and with respect to any "glaring gaps" in the DEIR. Contrary to the commentor's statement, a biological assessment of the project site

(as requested by the *form* letter from California Department of Fish and Game, standard type of letter to all practitioners in CEQA to preserve the Department's important responsible agency status regardless of whether the Department believes there is an impact of scale or not), and a micro-scale analysis of carbon monoxide impacts clearly is not indicated for this project due to the small contribution of traffic. It is believed that the type of carbon monoxide analysis requested by the commentor is a "hot spot" analysis. Hot spot analyses are performed only with enormous traffic volumes which are not present at this site. The commentor provides no evidence that this site has any such impacts, or that there is any requirement for this type of study. Therefore, no further meaningful response can be given.

The commentor completely misinterprets Exhibit NN to its own letter. Exhibit NN is dated August 14 and is an internal distribution memo for the Environmental Impact Report. Certainly the commentor cannot dispute an agency's right to define a high priority for a project. What the commentor does not realize or accept is that this is not the first time this EIR was evaluated. This internal review dealt only with the "Print Check Copy" of the EIR. The Print Check Copy of the EIR, in County of Orange parlance, is the final Screencheck of the EIR, usually after two or three Screenchecks. It is the version the County examines to authorize a consultant (or a private applicant, if there is a private project applicant) to submit the Environmental Impact Report to the printer. It is a proofing exercise.

COMMENT 13: There is more than adequate time to respond to public comments. First, voluminous comments have not been received. The number of comments received are typical for a project of this degree of controversy in the community. Secondly, the Responses to Comments is greatly facilitated by the fact that most commentors brought up issues that are non-environmental in character. Therefore, this facilitates the preparation of adequate responses to comments focusing on environmental issues.

COMMENT 14: This comment is not directed at the EIR, but rather at a Public Records Act Request. An extension to the deadline to respond to the Environmental Impact Report is not justified. The California Environmental Quality Act allows the County to have its own administrative record on the EIR, and the County is ready to stand by the substantial evidence in the Draft EIR for this project. The fact that the City of Lake Forest would like to enlarge the record by its own inquiry into public records is not the issue. Certainly, the County does not dispute the City of Lake Forest's right to make a Public Records Act Request, but a Public Records Act Request is not a substitute for the County's version of the EIR as presented in the Public Draft EIR. It is

not a surprise that there is no citation to the California Environmental Quality Act with respect to this issue, since CEQA does not have such a requirement.

COMMENT 15: The County disagrees with this conclusion.

COMMENT 16: As explained elsewhere in this Responses to Comments, the 39-acre conveyance has absolutely nothing to do with the expansion of the Musick Jail. First, the 39-acre conveyance, as noted in the Comment, consists of two parcels — one 27 acres in size and one 13 acres in size. As documented in the EIR, the 13-acre parcel located northeast of the existing Musick facility was authorized in the 1986 Musick Expansion EIR for use as agricultural land. Thereafter, in connection with the NCCP EIR, it was acknowledged that this land would be used for agricultural use adjacent to the NCCP. Therefore, there is no relationship to the expansion project of the Musick Jail at the present time, and the agricultural expansion under the 13-acre Reuse Plan parcel. The 13-acre parcel is simply a previously approved agricultural expansion for the existing jail, which was documented in other EIRs, and which is just being implemented.

With respect to the 27-acre parcel, this was the subject of a Notice of Intent from the Sheriff's Department early this year. Notably, this parcel is necessary for agricultural production for *existing* jail operations, since the Sheriff offsets the costs of existing operations by a considerable amount using farming by inmates. Therefore, this is not piece-mealing in this case.

COMMENT 17: The extension of Alton Parkway to the project entrance is specifically considered in the EIR, contrary to the statement in the comment. Furthermore, the extension of Alton was considered in its *own* EIR with respect to the Foothill Circulation Phasing Program, a comprehensive EIR on roadway facility extensions and expansions in the area. This certified EIR was incorporated by reference into the DEIR 564.

COMMENT 18: There is no expansion of the facility in the future proposed. The *Laurel Heights Improvement Association* case is inapplicable in this circumstance, since the County has voluntarily stated that the 7,584 inmates will be an absolute maximum at this facility. The County has also justified the retention of the remaining agricultural land by explaining the important financial ramifications to the County Sheriff's Department budget by being able to supply food products to the jail population, thereby offsetting the need to purchase them at County expense.

COMMENT 19: This comment is incorrect. Section 1.9 at page 10 specifically identifies the responsible agency expected to use the EIR. Other agencies which have regulatory or permitting authority are also identified, in addition to agencies which might be expected to be involved in some way with the project, but are not responsible agencies by definition.

COMMENT 20: This comment identifies a number of impacts the commentor believes will occur, and indicates they have not been adequately addressed. The commentor does not explain at this point for what reason the commentor believes these impacts were not addressed, or why they are considered significant in any event. For example, nowhere in the EIR is the storage of fill or export of soils even proposed. If the reference is to cut off the fill moving to Alton Parkway, this is done in a unitary fashion as is proposed — the roadway segment is built at the same time as the first construction of the jail. Therefore, it is uncertain what the commentor intends to imply by storage of fill and export of soils. Furthermore, the EIR amply demonstrates that the Alton Parkway extension as a whole is dirt poor, and, therefore, export of material from the site is not expected nor proposed.

The topical impacts in this area are responded to in turn in the more detailed comments in this letter.

The County of Orange does not agree that the impacts which the commentor identifies as significant are, in fact, significant. The commentor produces no evidence showing these impacts are significant, and the County has included evidence in its EIR showing they are not. Disagreement among experts — even though no experts are claimed here — is not a basis for inadequacy of an EIR.

COMMENT 21: Similarly, the County does not agree that these impacts as listed are significant or unmitigated. The commentor at this point submits no evidence disagreeing with the EIR's conclusions, which are, in fact, supported by substantial evidence. Even if the commentor had submitted such evidence, it would not affect the inadequacy of the EIR merely because experts disagree.

COMMENT 22: Please see response to the letter from Orange County Transportation Authority. The County is entitled to rely upon and incorporate by reference any document which is a matter of public record and generally available to the public. Certainly, the Reuse Plan EIR falls easily within this definition. The El Toro Reuse EIR is currently still under Draft EIR distribution and there are no known deficiencies in the document.

Moreover, however, as explained in the response to the Orange County Transportation Authority, there is not even any possibility the jail will cumulatively affect traffic when taken in combination with the Reuse Plan. In fact, just the opposite is true. The Reuse Plan completely dominates traffic in the area such that the jail traffic, when added in, is minimized. This is amply demonstrated in the table included in the OCTA response.

COMMENT 24: The EIR is explained in the Response to Comment 23 and elsewhere in these responses. The DEIR does not assume selection of the No Project Alternative for El Toro. The DEIR considers the 1994 noise environment for El Toro, as is permitted by CEQA. Further, the DEIR considers the largest civilian airport. The City of Irvine's plans for Irvine Planning Area 30 are subsumed within the Reuse EIR which is incorporated by reference. There simply is not any way for the traffic from the jail to combine with these two projects in a way that will change the impact assessment, and the commentor produces no evidence to document its allegation.

COMMENT 25: It is hard to imagine a project alternatives section has been more complete than the one included in DEIR 564. First, over 28 alternatives are presented in the "Alternatives" section, even though CEQA only requires alternatives consideration when there are significant impacts to the project, whether they have been mitigated or not. The objective of CEQA is to focus on those alternatives capable of reducing physical environmental affects. However, due to the public interest in the project, the County has considered what is essentially a search for another site. This is in spite of the fact that there is nothing environmentally redeeming or harmful to the site that has been selected for the expansion of the jail. Legally speaking, CEQA would not even require an alternative sites analysis in this context. However, the County provided such an analysis. While the commentor seems to disagree with the County's conclusion that it is disabled as a practical matter from obtaining and implementing another site, the comment provides no evidence to support the commentor's conclusion. The commentor seems to misunderstand the California Environmental Quality Act with respect to economic feasibility. Economic feasibility is not a dimension of the project itself under CEQA, but rather a dimension of the rejection of project alternatives. Therefore, even if the \$1 billion estimate for this jail expansion were true (which it is not) it would not matter. It is completely within the County's discretion to select as its proposed project any project it believes is appropriate. The issue under CEQA is, to the extent that the project as proposed would cause impacts to the physical environment, these impacts must be offset by mitigation and/or project

alternatives or be accepted through a Statement of Overriding Consideration.

Also, the commentor does not appreciate there is quite a long lead time before a jail is built and occupied. Literally, a number of years are required to design, fund and construct the jail in order to have it open by the year 2001. There is barely enough time at the intended certification date of November 5, 1996 for this EIR to complete this process. Therefore, this is not a question of delayed timing — this is the minimum time that the jail can be brought on line if a decision is made on November 5, 1996.

COMMENT 26: This comment is a statement of preference for certain alternatives expressed in the EIR. Contrary to the statement in the comment, the Santa Ana Main Jail expansion alternative is separately analyzed in the Draft EIR at page 210. This was particularly noticed by the City of Santa Ana in their letter of comment herein. Furthermore, the half-width of Alton Parkway was also examined in the EIR at page 102. The fact of the matter is that the half-width extension still does not avoid impacts to small agricultural wetlands on site, due to the fact that the protective improvements for the half section of roadway occupy virtually the same area of wetland that the roadway would. Therefore, there is no environmental advantage as a result of this option.

Furthermore, it has long been settled in CEQA that project alternatives do not need to be generated for individual aspects of the project. Although sometimes individual aspects of the project are of sufficient concern to essentially be alternatives in and of themselves, it is clear that CEQA does not require an alternative for each significant impact area.

COMMENT 27: Alternative site analysis is only required when there are significant effects. No significant effects occur from the ICF at this site.

COMMENT 28: Please see response to Comment 249 herein.

COMMENT 29: Contrary to the commentor's assertion, the project need not be referred to the Airport Land Use Commission. The commentor raises the interesting requirement that rezoning of the site should occur to enable the construction of the proposed project. The commentor goes on to characterize the jail as a nonconforming use. The commentor apparently overlooks the fact that counties do not have to rezone or observe underlying zoning when acting in their own capacity on a public facility. This is well established in the *Government Code* and, therefore, a rezoning is not necessary and is not required.

Further, with respect to the Airport Land Use Commission, the EIR contains a comprehensive explanation of airport regulations, plans and policies beginning at page 115 and continuing through page 120. The section completely explains the basis for the County's determination that the project does not require Airport Land Use Commission consideration.

COMMENT 30: Please see the response to Comment 1 of David Melvold, since his comment raises essentially the same issue. Again, the commentor uses the 1986 Musick EIR — which predates the establishment and operation of any of the modern maximum security facilities in the County — to stand for the proposition that somehow the project is different. A jail is a jail. While it is true that the design of a medium to maximum security jail would be different from a minimum security facility, this does not mean the project is not an expansion. The project is a minimum, medium, and maximum security facility as proposed.

COMMENT 31: This comment is incorrect. The EIR clearly contains a diagram at page 56 (Exhibit 10) showing grading and describes the land form alteration in considerable detail beginning at page 55. The commentor does not raise any claim that this information is inadequate to explain what the grading *is*. There is no requirement in CEQA for grading or construction plans at the engineering level to be prepared for such a project. If it is possible to disclose that the impact is based on planning level documents for these impacts, that is what CEQA requires.

COMMENT 31: The DEIR does contain a list of issues which have been previously settled and determined and are not being revisited in the Draft EIR. First, throughout the topical sections of the EIR, it is explained what information is being derived from the other sources or from technical studies. Second, the Notice of Preparation for this EIR clearly stated that the 1986 Musick EIR would be used. This was included in the technical appendix to DEIR 564.

COMMENT 32: Nowhere is this required by CEQA. The Expanded Initial Study distributed with the NOP completely dealt with this issue.

COMMENT 33: This comment castigates the EIR for including in an early portion of the EIR a question that was specifically posed at the scoping meeting and which the public *asked* to be addressed. Environmental Impact Reports are prepared for the benefit of the public as well as the decision makers. This question has consistently been asked by the public, and the County provided an answer.

Contrary to the statements in the balance of this comment, the County's course of conduct since 1992, and as late as 1995 in the Theo Lacy EIR as previously indicated, has been to expand the jail system on the Musick site and not sell the Musick site.

COMMENT 34: Please see response to Comment 5, since this is a repetition of that point.

COMMENT 35: It is not understood what this comment is intended to raise in the way of an environmental issue. The commentor relies on EIRs which are much older than the ones referenced in DEIR 564 for the more modern analysis of maximum security facilities. It would be hard to imagine a situation in public government where a government's knowledge did not *increase* over the years, such that the County would have learned more about the issues concerning the jail system between 1990 and 1996 than it knew in the 1980s. The commentor completely overlooks the fact that the 1986 Musick EIR speaks in broad terms about the crash hazard at the MCAS El Toro, and yet overlooks the statements in DEIR 564 that indicate this jail project will not even come on line until after El Toro is closed to military use.

COMMENT 36: These quotations from the Gypsum Canyon Jail EIR are correct. Due to the failure of the election for the County-wide tax for jails in 1991, the Board of Supervisors decided not to proceed with Gypsum Canyon because it was clear that the price for Gypsum Canyon was far more than could be obtained for the Musick property, and without the supplementary funds from a sales tax augmentation, Gypsum Canyon could never be acquired. The Board of Supervisors left in place the 1987 resolution certifying the Environmental Impact Report and only rescinded that portion that picked Gypsum Canyon as the long-term jail site. Therefore, this point has no bearing on any County expectation of selling the Musick site, since as of the date of the Board's action, no long-term jail site even existed.

COMMENT 37: Contrary to the statement in the comment, the Short-Term Solutions to Jail Overcrowding Report of January, 1992 discusses the expansion of the Musick site for further buildings and structures and rejects it because the cost and time to prepare the EIR would not be commensurate with the goals of the Short-Term Jail Solutions Report. Therefore, it is clear that the Board of Supervisors was considering the Musick site as a means of expanding jail facilities as early as 1992.

Nothing makes more clear this intent than the public's perception of it. As noted on page 4 of the EIR, the public reacted to the comments concerning the Musick site, and one speaker cited in the EIR specifically

spoke against the expansion and housing of a higher classification of inmates.

COMMENT 38: This comment berates the EIR for having the effrontery to point out a letter in the public record submitted to the Board of Supervisors on this report as an indication that the Short-Term Jail Solutions Report received local attention. Obviously unable to substantiate the inclusion of this information in the EIR from a CEQA perspective, the commentor insults the EIR preparer and alleging a "close relationship" with the Sheriff's Department. It is interesting that in making this admonition, the commentor criticizes Exhibit O of its own letter, which was sent by the EIR preparer. The matter sent by the EIR preparer is an excerpt from a book chronicling the history of the City of San Juan Capistrano and indicates that in January, 1896 there was public controversy over the fact that there were insufficient jails to accommodate the population which needed to be incarcerated. How this can be translated into an accusation of bias, of a close relationship with the Sheriff's Department, and of a disinterest in preparing a proper analytical review document, is beyond imagination. Nor does the facsimile transmittal from the preparer of DEIR 564 or the article "ridicule citizens and County officials who are concerned about the impacts of jail construction."

COMMENT 38: The fallacy of the commentor's characterization of the Board's continuing commitment to sell the Musick site rather than expand it has been responded to previously. The report's reference simply documents the array of options which the Board was considering. Interestingly, the commentor also chooses to cite the Grand Jury report of 1994, not the first report which recommended placing maximum security beds at the Musick facility. There is no question that any responsible governmental agency would consider a variety of options for expanding the jail system, including selling a 100-acre piece of property. However, the commentor fails to point out that the bankruptcy of Orange County and the subsequent Certificates of Participation securing the land of the County have changed circumstances. Facts are not static and change over time with circumstances.

COMMENT 39: This comment is a statement of opinion. It suggests that conditions never change, when infact the June, 1996 bankruptcy recovery plan has changed the accuracy of this 1995 statement.

COMMENT 40: The County Administrative Office and the Board of Supervisors agreed in 1991 to prepare a long-term jail study, but this study was never completed. The jail overcrowding continued to increase, and the bankruptcy and bankruptcy recovery occupied a great deal of attention

in the County in the last few years. As explained in the EIR, time continues to pass as the problem grows worse. The County now finds itself in a position, as documented in the Project Alternatives, where there are really no options to acquire a long-term site (assuming long-term means year 2006) and the jail facilities must be expanded to avoid a continuing and increasing crisis situation. In spite of the lengthy debate on this project, not a single commentor has suggested an alternative site and a means by which the County *could actually acquire a feasible site in the timeframe necessary*. Although the County understands it is not the public's responsibility to identify alternative sites, such identification is appropriate where the commentors are claiming feasibility of a site or sites or options where the County has produced substantial evidence showing it is not, in fact, feasible. A long-term jail study, then, if it is intended to be for facilities to reach the year 2006, is an exercise in both futility and danger while the jail overcrowding continues to compromise public safety.

COMMENT 41: Finding a long-term jail solution has become a critical issue for any jail project since the horizon year for 10,911 beds — the year 2006 — is less than 10 years away. Given the fact that the County has not been able to bring on a great deal of expansion in the jail facilities in the last 10 years, the long-term jail study is intended to be for *beyond* the year 2006. This is repeatedly stated in the EIR. Again, the County Administrative Office statement about waiting to develop a site-specific long-term plan until a funding source is identified is not the approach the Board endorsed when it commenced this EIR. As disclosed in the EIR in the discussion of jail acreage at the Reuse Plan, for example, the EIR concludes that the Reuse Plan alternative is not entirely infeasible. However, as indicated in the responses to other comments and in the EIR, use of the Reuse Plan land delays for three years the *beginning* of implementation of the project. This means the jail would not be able to be open for the year 2001 (like the Musick facility) and is essentially a three-year delay in a crisis situation (2004).

The role of an EIR is to evaluate a project as proposed and not justify whether the decision makers' path to selecting that project is correct. The focus of the Environmental Impact Report is to evaluate the effects on the environment and not "second guess" the process by which the Board of Supervisors focuses on a particular site. Indeed, there have been few issues in the County of Orange that have received more attention in the printed media than the crisis in the jail system. The Grand Jury has focused on this issue nearly every year since 1987. It would be hard to imagine a well read citizen of Orange County not understanding the dimensions of the jail problem, even if there was only reliance on media reports.

COMMENT 42: The County disagrees that this discussion should be removed. The commentor does not explain why it should be removed, or why the County should hide history of the jail issues from a public which had already expressed significant interest in how the County Board of Supervisors had reached the point of a proposed expansion at the Musick Jail site.

COMMENT 43: As described in other responses to comments presented by this letter, it is a false statement that the EIR is based on a rated bed capacity.

COMMENT 44: The Draft EIR properly incorporates other documents by reference and the cited case is not applicable. Every time a document is referenced in the EIR, it is summarized for what use it can be to the discussion. In fact, and totally unsolicited by the City of Irvine or the City of Lake Forest, the County provided not only final EIRs for the Theo Lacy facility, but final EIRs for all jail facilities, in addition to five EIRs each for the Cities of Irvine and Lake Forest to facilitate a convenient public review of these documents. CEQA not only clearly allows the incorporation by reference to lengthy documents, it prohibits the needless recitation of information from these documents except where pertinent. The County has completely fulfilled its duty of investigation and only points to these documents as corroboration for previous environmental documentation pursuant to *Public Resources Code* §21166.

It is not understood what the commentor would have the County do. An EIR is necessarily a lengthy document - much of the debate regarding CEQA in the last 10 years has been how to shorten and make more useful Environmental Impact Reports. Incorporation by reference is one of the techniques the state and the legislature have consistently proposed to do this. The other option is to make *this* EIR 2,000 pages long. Given CEQA page limit requirements and the need to make sure the public is properly informed, it is not certain what purpose this would serve. This approach would probably defeat public understanding of the project rather than enhance it. Rather, the appropriate CEQA approach has been used.

COMMENT 45: The County of Orange does not agree that its approach has conflicted with relevant case law or CEQA Guidelines §15150. Much of the jail siting history and jail expansion history in the County of Orange has provided interesting observations and data concerning jails. CEQA does not require the recitation of this data when incorporation by references is available, nor is the public required to read the EIRs incorporated by reference to obtain an understanding of the project because the County has in its own document provided an explanation. Had the County omitted any intelligent discussion in the EIR on why the data is useful,

merely directing the reader to further data without explanation of how it applies (the actual case in *Emmington*) perhaps the commentor would have a point. But this was not the case. The alternative is to simply omit data, and the County does not believe that would be a proper use of the California Environmental Quality Act.

COMMENT 46: EIR 447 is appropriate not only to incorporate by reference, but to rely upon pursuant to §21166 of CEQA unless it shows that impacts will be more severe or new when compared to the project in that EIR. Furthermore, the County did, in fact, find this in some instances, but this does not eliminate the usefulness of this EIR since many of the aspects of its impact consideration have not changed. With respect to the Katella-Douglass Jail EIR, it is still a public document, and was only used to demonstrate the types of capacities that could be approved for multi-story buildings (such as 10 story) so an alternative could be evaluated for accommodating more inmates on a smaller site in taller buildings. As to not providing the incorporated documents to the City of Lake Forest, as stated before, the City of Lake Forest was provided with every Certified Final EIR on the initiative of the County of Orange and its consultant — not as a result of the request of the City of Lake Forest. The County did this so the City of Lake Forest and its citizens would not have to travel to Santa Ana to examine these documents — which would have been a completely acceptable approach under CEQA. Since the County's consultant reviewed these documents in order to write DEIR 564, it is difficult to imagine why a city which wished to be properly informed on the project and hired technical consultants to assist it, would not similarly wish to review these documents.

COMMENT 47: In the County's view, this type of comment truly exalts form over substance. Nonetheless, the County believes the table completely reflects §15123 of the CEQA Guidelines and even exceeds its requirements. The comment that it is difficult for someone to review mitigation measures, then look at the number, and then turn to the inventory for mitigation measure conveniently included as Section 9 of the EIR, is not well taken.

Similarly, the reliance on the 1988 Memorandum of Tentative Decision from the Orange County Superior Court with respect to the Katella-Douglass EIR is misplaced. The issue in that EIR was that the impacts identified in the summary table were not always characterized as impacts in the text. Such is not the case with DEIR 564.

COMMENT 48: The discussion of history referred to on pages 16 through 20 has usually been appreciated by readers of jail EIRs to help provide a context. It is not inaccurate. It is further supplemented by the technical appendices in Section A with a complete chronology of jail events. There was no effort

to conceal the fact that no prior environmental document had been prepared for placing maximum security beds at the Musick facility.

With respect to the need for a Long-Term Jail Solutions Report, the commentor identifies a reference in Exhibit J of the exhibits to the letter from the City of Lake Forest. The commentor is requested to note the date of April 23, 1996. This is a very early point in the EIR preparation process, when the County had not fully been able to examine all of the issues connected with the project. It was later determined that the Long-Term Jail Solutions Report will go beyond the year 2006 in any event because it is already 1996. Second, with respect to the listing in Exhibit K, the need for precise number of inmates by classification was sought at that time because the facility arrangement was thought to be the same as that proposed for Theo Lacy — i.e., that there would be a combination of maximum security housing units (“cells buildings”) barracks and dormitories. These types of buildings at the Theo Lacy facility in many ways help classify the type of inmates since certain types of inmates cannot be kept in certain types of buildings. However, following further project definition, it was determined that all of the buildings at Musick would be built as maximum security housing units, regardless of the number of maximum security inmates which would be housed there. Therefore, the precise number of inmates by classification became unimportant to an understanding of the environmental impacts of the project.

COMMENT 49: To the extent that this information is necessary for an environmental evaluation, it has been provided in this EIR. However, it is not explained how a complete corrections needs assessment — which has been prepared and updated in the County several times (see pages 16 through 20 of the EIR) — is not adequate. The focus of the EIR is on environmental review, and not “second guessing” the professional estimate of what the jail need is.

COMMENT 50: It is not understood by the County how a reader would be in a position to judge whether the maximum capacity for the Musick facility as specified in the EIR was accurate by a discussion of the *Stewart B. Gates* decision. Again, as explained elsewhere, this EIR does not rely only on rated capacity. The EIR characterizes the capacity of the facility in terms of an absolute maximum number of inmates. This is the best way to reveal to the public the actual capacity of the building, rather than dealing with highly specialized terms such as “rated” and “crowded.” In fact, in past EIRs on jail projects, it is clear the public has become confused with the use of these terms which are only important to jail administrators in seeking funding and determining whether a facility is overcrowded. The actual measure for a CEQA project in describing the

whole of the action is how many people the building can hold. It does not matter whether they are rated beds, crowded beds or emergency beds, as long as the maximum number is stated.

COMMENT 51: It is not certain what light this information would shed on the environmental impacts of the project. The EIR provides data taken from public reports presented by the Sheriff's Department to the Board of Supervisors on the fact that early releasee are sometimes rearrested on new charges during the time they would have been in jail. It is similarly uncertain of what environmental value the information concerning new crime within two, five and ten miles of a correctional facility in which the releasee were housed could be connected with the jail itself, assuming criminal conduct is an issue for CEQA. It would be difficult, given the small size of Orange County, to be within 10 miles of any of the jail facilities and not overlap another jail facility or be in an area where crime was already occurring.

COMMENT 52: The EIR clearly explains why the number of higher security inmates is increasing over time. The EIR explains that, given the shortage of beds in the facility, the Sheriff as operator of the jail system, is required to release the lower classification inmates on an early release basis or a cite and release basis, keeping only the most significant inmates in terms of a security viewpoint. If the number of beds do not change and the number of inmates requiring maximum security housing increases, it is easy to see how the number of higher security inmates is increased over time. This is why most jailers in California have turned to the type of building initially constructed at the Intake and Release Center in Santa Ana, and which design has been implemented at the Theo Lacy Jail facility in Orange and is proposed here. The type of facility proposed increases security both inside and out to a significant degree.

COMMENT 53: The term "unadjusted" is taken from the Omni Report referenced earlier in the section. The term is meant to indicate that the demand has not been adjusted for non-incarceration solutions such as video arraignments, community work furlough, etc. As documented in the EIR, the adjustments that are possible through these types of programs are very small in relationship to the number of beds necessary.

COMMENT 54: This comment does not raise any allegations of inadequacy with respect to the EIR. The County has described the Musick Jail facility as the topic of the EIR, and describes the Santa Ana Main Jail Complex and the Theo Lacy Jail facility in the "Alternatives" section. Therefore, a map is unnecessary and would not add to an understanding of the project whatsoever.

- COMMENT 55: This was a question from a consultant to the City of Lake Forest posed to the environmental consultant and was answered in the telephone call. There are approximately 26 countywide agencies (such as California Highway Patrol, Department of Fish and Game, FBI, DEA, etc.) which contribute to the jail population. This is part of the law enforcement environment in Orange County and is a legitimate subject for booking statistics within five and ten miles of the facility. There is no other facility for these particular inmates to be incarcerated, and in an urban area such as Orange County, cooperation among the various law enforcement authorities is necessary.
- COMMENT 56: As explained elsewhere in Responses to Comments of other letters, the key factor in the number of inmates that can be accommodated on the Musick facility is its 100-acre size. However, the fact that 25% of the bookings countywide were from a 10-mile radius of the proposed facility and within South Court jurisdiction is a significant aspect of the rationale in siting the facility here. Unlike the remainder of the County, it is South County that is projected to grow by a substantial population to the year 2006 and beyond. Therefore, 25% of the bookings countywide being in this portion of the County can be expected to grow. Therefore, the EIR is simply trying to show that the project is both of sufficient size and reasonable relationship to even the existing booking rate such that it is appropriate at this location.
- COMMENT 57: This comment expresses the commentor's belief that there would be a better way to show density of bookings. Again, density of bookings by census tract or ZIP code zone would be a one-time glance at the intensity of bookings in the area and possibly a justification for siting a facility in one location or another. However, the fact that already the division of bookings systemwide is roughly commensurate with the population, and the fact that the South County is the sector of Orange County that is anticipated to grow substantially in the next 10 to 20 years, this fact is important to reveal to the reader.
- COMMENT 58: This is not an EIR in determining the appropriate location for a jail facility. This is an EIR to indicate the proposed project of the Board of Supervisors to locate the facility at Musick. Therefore, this comment is not well taken.
- COMMENT 59: The County disagrees with this comment. Whether the arrestee is a South County resident or not is not a justification for siting a jail. The preparer of the DEIR in the referenced exhibit did not acknowledge this was an issue — the preparer of the DEIR simply asked the question. Because it was later explained that the jail cannot operate on a geographic-specific basis (i.e., sending only South County residents to

South County jails and North County residents to Theo Lacy and Central County residents to Santa Ana) — it is not feasible to arrange the jail operation this way.

COMMENT 60: The reason the 39-acre conveyance was not indicated in the EIR as part of the project description is explained earlier in the response to this letter.

COMMENT 61: This comment refers to the Notice of Intent submitted by the Sheriff's Department, referring to Exhibit Q. The County has reviewed the reference to "id.@2" for the expansion of Musick branch jail and has not found such a reference. The 39-acre parcel is not to be used for future expansion as documented in the EIR, and is designed to be used for agriculture. Regardless of what the Sheriff's intentions for the 39 acres were at the time of the Notice of Intent was submitted in late 1995, the recommended conveyance for the LRA limits this site to agriculture. Since the County of Orange is in charge of the agricultural use of the property after 1999, the Sheriff cannot expand the jail system onto the property.

COMMENT 62: The development of the 12 to 15 acres referred to in the EIR does not mean jail development. At some time, the Sheriff's Department may wish to relocate the chicken coops into the agricultural area, The agricultural use referred to in the EIR is crop growth. The use of this property as agricultural is also intended by the Reuse Plan recommended conveyance.

With respect to the Reuse Plan Figure 3-1, the designation of "institutional use" is a broad category and is not intended to convey jail use, although a jail would be consistent with such a designation. The acreage that has been agreed to be conveyed to the Sheriff is for agricultural purposes, and if the commentor is suggesting that the institutional use shown on the Reuse Plan is the jail, this impression is incorrect. Therefore, since the 39 acres was part of the agricultural use for the existing jail facilities — and not the expansion — this does not constitute impermissible piece-mealing.

COMMENT 63: The number of beds included in the proposed project *does* include the 543 inmates located in tents and modular units. The DEIR clearly states this.

The comment is inaccurate with respect to characterizing the 7,584 beds in the facility as a "rated capacity." This is a worst case capacity as requested by the commentor, and this has been explained in responses

to comments elsewhere in this letter. The remaining comments regarding revised populations for the jail are inaccurate.

COMMENT 64: As explained elsewhere in this response, the worst case capacity gauged by how many inmates can actually be physically accommodated inside the facility is 7,584 augmented only by a possibility of a temporary emergency population of 384 more inmates. This is the worst case. The document referenced is a document generated early in the design of the jail buildings. A comparison of this arrangement with the buildings' arrangement in the proposed project indicates the buildings were reduced in size. Therefore, although the initial building, when precisely calculated, projected a worst case capacity of 9,312 inmates, this was during the project development phase. This was not the number of inmates that were ultimately designed for the building.

COMMENT 65: Again, for reasons stated elsewhere in this response, the commentor is mistaken about the capacity of the building. The references in the Project Description, "...to an absolute maximum of 7,584 inmates, with the addition of 384 inmates only for temporary emergency conditions" (DEIR 564, page 35) is the correct definition of the maximum capacity of the building.

As explained in a previous response, the future expansion of the jail on the 39-acre El Toro conveyance is not proposed by the Sheriff or the Board of Supervisors. While it may have been at one time proposed by the Sheriff, the Board of Supervisors is in charge of determining what property will be used for jails. The denial of the recommendation for reconveyance of this property for jail use by the Local Redevelopment Authority's is expected to be upheld by the Board of Supervisors when the Board considers the Reuse plan. Therefore, there is no intention to expand the jail on the 39 acres.

COMMENT 66: As explained previously, the commentor has misunderstood the data in the EIR, or perhaps overlooked page 35, which states the absolute maximum.

COMMENT 67: Please see Response to Comment 66.

COMMENT 68: Exhibit 2 will be corrected for Item 2; however, Item 7 is intended to indicate the location of the City of Lake Forest and is correct. There is no terminology that has been found by the County identifying the area south of Trabuco Road and east of Bake Parkway as the "Lake Forest Planned Community."

- COMMENT 69: The 7,584 beds does not include the ICF, as this element is separately discussed.
- COMMENT 70: This comment is irrelevant in the CEQA process. This is not a document on proving to the Board of Corrections that the jail is designed properly — this is a document to evaluate the effect of the jail on the physical environment.
- COMMENT 71: This information was evaluated at the time the EIR was being researched. The residential care facility known as the ICF does not admit gang members. Gang members are screened through the juvenile court system and only non-gang members are admitted to the ICF. Furthermore, this is a residential care facility for disturbed youths. There is no knowledge of any crimes outside of the facility, even though at times the youths have altercations with the staff at the facility. These altercations are quickly resolved, and the facility is highly supervised. The length of residence at the ICF varies. It is a residential care facility and the intention is to resocialize these youths so they return to their own homes. It is not explained what the length of residence would do to describe environmental effect.
- COMMENT 72: The EIR does remark that in connection with the description of the ICF it may not meet state licensing requirements due to the proximity of the jail. This poses no environmental issue.
- COMMENT 73: The ICF cannot expand in the future, and it is not the optimal desirable location in any event, as it is too distant from probation and other services.
- COMMENT 73: The size of the ICF site is so small that it could not be used for anything but agriculture or parking. The ICF and related services have been designated for approval by the LRA staff for participation in the MCAS-El Toro Base Reuse Plan
- COMMENT 74: This comment is incorrect. It is not understood what part of the discussion on the AELUP the commentor does not understand. Therefore, a more meaningful response cannot be made.
- COMMENT 75: The EIR describes the maximum number of inmates per complex, and this constitutes the absolute maximum that can be accommodated in the complex short of the emergency accommodation. The complex identified as "1" is the central reception area for inmates returning from court. The 400 to 500 beds dedicated for medical housing have been included in the bed count of 7,584.

COMMENT 76: This has been responded to in another comment letter. The public was specifically invited to provide input on the arrangement of buildings on the site when the Notice of Preparation was distributed, and also at the scoping meeting. Some members of the public provided such input, and this was taken into consideration. Specifically, the input requested that the buildings be moved farther from the easterly boundary of the site, and that the jail buildings be moved farther from the southerly boundary of the site. This was accomplished.

COMMENT 77: As explained in the response to the letter from Assemblyman Mickey Conroy, this is a typographical error which will be corrected in the Final EIR. Numerous other locations in the EIR and in the Notice of Preparation indicate that the type of building proposed houses the inmates unless they are released, go to court or go to the hospital. Guard towers are not necessary since no medium or maximum security inmates are outside the facility.

COMMENT 78: These elements are completely addressed in the EIR. The construction of Alton Parkway to the project entrance is specifically addressed. The Alton Parkway extension along its ultimate alignment is not necessary for this project, as amply demonstrated by the small amount of traffic associated with this project. There is no public safety risk whatsoever, as amply demonstrated by the evidence in the EIR, to surrounding residents from inmate releases. An entire "Public Safety" section was written on this aspect in order to evaluate this issue, even though CEQA and case law do not regard this type of alleged safety risk as an environmental impact.

The commentor does not indicate what information would enable the reader to determine the accuracy of the traffic analysis and adequacy of parking. These figures are generated by normal technical methods and, therefore, no further meaningful response can be made.

COMMENT 79: Again, the commentor requests information which might be of interest to the commentor, but is not of interest to the environment. This is a normal demolition and construction project, and the buildings are minuscule compared to other buildings in the surrounding area. The commentor poses the question of whether security and safety issues would be easier to address if each complex housed inmates of a single classification, but this comment reflects a misunderstanding of the facility itself. The point of the facility is that it is so secure it does not matter what classification or combination of classifications is housed in the facility. The comment suggests that the commentor might have developed the impression that this is just a large room inside the building. This is not the case, as is adequately explained in the EIR. The

means to separate inmates are quite adequate to provide for safety, as documented in the EIR with respect to other facilities operational at other county jail sites.

The County is under no obligation to document the methods used to calculate an item which is a feature of a project description. Even if such calculations were provided, it is unclear how the commentor would know whether the calculation was correct or not, since the commentor would not have personal knowledge of the data used to prepare the calculation.

COMMENT 80: The EIR's description is complete and adequate. The new staff or what is being added to the complex, and the existing staff have already been accommodated in traffic calculations for count. The commentor does not explain what good this information would do for such a small complex.

COMMENT 81: The commentor overlooks the fact that the County does not even have to explain funding for the project, and fails to point to a section of CEQA that requires such a discussion. The funding for the project is described to the extent it is known at this time. It has no relationship to whether the project should be proposed.

Furthermore, the commentor misunderstands CEQA. CEQA allows the use of economic or fiscal considerations to reject alternatives; it does not require that the project itself be justified based on the availability of funding.

Cost studies are not necessary in the EIR. This statement was made by a member of the Sheriff's Department and not by a member of the County staff dealing with the environmental report process. There would be no obligation whatsoever within CEQA to evaluate the cost of the project.

The commentor's opinion as to whether or not the County has the funds to build the project is noted. However, it is simply an opinion, and has no bearing on whether the project is considered by the Board of Supervisors.

Moreover, the commentor seems to misunderstand that the jail is proposed to be built over a period of time. The commentor treats the jail EIR description as if it will be built all at once — even though the EIR goes to great lengths in the "Phasing and Funding" section (Section 4.2) and elsewhere to describe how buildings will be replaced, how construction phasing will occur and the like. The commentor expresses its opinion that the Theo Lacy expansion should be completed first, justifying this position by the fact that somehow the environmental

analysis in the EIR will become “stale.” Nowhere in CEQA is this term found. §21166 identifies the basis for preparing another EIR when one has already been prepared and it is not foreseen that this will change with the Musick project, particularly because the size and characteristics of the project were the result of a judgement.

Similarly, providing information about how the operation of the jail would be funded is merely gratuitous on the County's part. It makes no difference in the proposed project how the jail operation is funded — the funding makes no difference to the effect on the environment.

What the commentor seems to be suggesting is that the County conduct a budget analysis in order to determine environmental impacts. This is not required by CEQA nor does the commentor suggest that any additional environmental impacts will be revealed. The commentor simply seems to be stating its position that the project is infeasible because of funding shortages. While the commentor is entitled to its opinion on that point, the issue here is whether an environmental issue is raised by the funding. This is not the case, nor does the commentor contend that any environmental impacts will be disclosed.

With respect to the Capital Improvement program and the Alton Parkway construction, there are ample funds in the Alton Parkway budget of the FCPP to build that portion of Alton Parkway which reaches the jail entrance. Even if this weren't the case, and even if these funds are not used, the short extension of Alton Parkway necessary to reach the jail entrance is simply a cost of construction of the jail.

COMMENT 82: Please see the response to an earlier comment raising this identical issue. The EIR is not deficient and does include the required identification.

COMMENT 83: Please see responses elsewhere in this document for an explanation of why DEIR 564 properly incorporates documents by reference.

COMMENT 84: The commentor does not describe what the “key finding” of the Alton Parkway Project Report and EIR 447 is with respect to Alton Parkway. A review of these documents does not reveal any key finding that would be of interest in this section, except that the Alton Parkway extension in its totality is “dirt poor,” an issue discussed in the EIR.

The commentor's complaint that it is inconvenient for the commentor to refer to other documents is invalid. The EIR summarizes those documents for the commentor's convenience. The fact that the commentor still wishes to review other documents is laudable; but the issue is whether the discussion is in the EIR, not whether it is convenient

for the commentor. All of the relevant information in this area has been summarized and stated. The other documents simply serve as the support and proof of that information.

COMMENT 85: As explained before, the 39-acre conveyance is not relevant to this comment. With respect to the topographic information from Alton Parkway, the commentor fails to describe of what value this information would be. The topographic contours shown on Exhibit 9 clearly show that the Alton Parkway alignment — and even most of the site — is flat. The purpose of an EIR is not to provide enough information for the public to do an engineering design on the project, but only to assess the impacts. The commentor, interestingly, does not point to any impacts that have not been addressed.

COMMENT 86: Again, the commentor misunderstands the EIR. The EIR indicates the contamination problem *on the Reuse Plan* has delayed (not *will delay*) the Alton Parkway extension. However, the EIR also clearly demonstrates that there is no contamination problem for the extension of Alton Parkway from Irvine Boulevard to the entrance of the jail, well southwest of where the contamination occurs. The commentor simply leaps to the conclusion that somehow this is going to interfere with the jail, which it will not.

Similarly, no map is required for the types of soils, particularly because the discussion is detailed on the types of soils present on the site.

COMMENT 87: No such setting information is necessary. The existing setting for the seismicity was clearly discussed in FEIR 447 and does not need to be repeated pursuant to CEQA.

COMMENT 88: Contrary to the commentor's assertion, the EIR clearly addresses liquefaction at page 55.

COMMENT 89: Contrary to the commentor's allegation, the cited section does not require that public agencies adopt thresholds of significance. In fact, not even the state in amending the guideline, has been able to adopt thresholds of significance for guidance. Therefore, there is no need for the County to establish such thresholds nor does this foster reasonable analysis within CEQA on a site-by-site basis.

COMMENT 90: The EIR clearly discusses the amount of cut and fill on the site. The project topography is not complicated, and it would be difficult to even see the amount of earth that would need to be moved and what the adjustment would show. In fact, this grading issue is taken into complete consideration in the "Land Use and Relevant Planning" section

beginning at page 120 and keys this information to the proximity of the airport. The comment regarding Exhibit 10 is incorrect. Exhibit 10 property shows grading locations, and not volumes. The EIR clearly indicates that the disposition of the cut is on site for Alton Parkway and there is a balance. No additional fill is necessary. There is no temporary storage of fill materials on site, and the grading operation is expected to commence and complete with each phase. Elsewhere in this response the various arrangements of Alton Parkway have been discussed.

COMMENT 91: Again, the commentor does not explain why agricultural uses would be considered “de novo.” The commentor gives a reason that has no basis in CEQA for not using the Final EIR 447, and no “tiering” is even proposed with the project. The balance of the comment has been considered elsewhere, except to the extent of the allegation of losses of agricultural land. The commentor, while disagreeing with the conclusion of the EIR, offers no contrary evidence. Endangered species, similarly, are quite distant from the site, and coordination with the NCCP coordinator indicated no impact in this area.

COMMENT 92: Since the EIR concludes the project has essentially replaced agricultural land, there is no loss at all. Therefore, there is no loss to accumulate.

COMMENT 93: This begins a series of comments where the commentor seeks to rewrite the EIR for no other obvious purpose except that maybe that is the way the commentor writes EIRs. There is no indication as to what the commentor does not understand about the EIR, nor is there any indication of what impacts the commentor believes have been overlooked. With respect to mitigation measures, there are several suggestions. Taken in turn, the mitigation measure concerning the temporary storage of fill is not accepted because no temporary storage of fill is proposed.

COMMENT 94: The mitigation measures suggesting that fill materials might be stockpiled in the City of Lake Forest or the City of Irvine is not accepted because no such proposal is made, nor will it be made.

COMMENT 95: The mitigation measure relating to fill material or soil being exported from the site is not accepted because there is no proposal to export fill material from the site on the streets of the Cities of Lake Forest and Irvine.

COMMENT 96: This mitigation measure is outside the control of the Sheriff or the County of Orange. It is within the control of the Board of Supervisors. However, it is premature, especially in light of the fact that the conveyance parcels mentioned are not part of the proposed project and

are part of a separate project known as the Reuse Plan. It is inappropriate to adopt this mitigation measure prior to the Reuse Plan. The timing of the adoption of this measure will be in conjunction with the Reuse Plan. However, the County will forward this mitigation measure to the Reuse Plan team for consideration.

COMMENT 97: Since there is no proposal of on-site storage of fill materials or off-site export of materials, there is no need for an analysis. The fact that the commentor believes that absent a full analysis, impacts will be significant when such storage or export is not even an element of the project, is not understood. The impacts on agricultural land are similarly not significant as documented in the EIR, and the commentor offers no evidence to support the contention that they are.

COMMENT 98: Please see Response to Comment 97.

COMMENT 99: This comment is not well taken. The analysis for the EIR considers the full project, as explained previously in these responses, and is based on trip generation numbers for the proposed project which are correct, as explained in previous responses. Many of these types of comments posed by the commentor all derive from the commentor's initial misunderstanding of both the project in the EIR and CEQA. There are no sensitive receptors or micro-scale impacts, and the discussion clarifies PM10 and NOx emissions are not significant after mitigation. In fact, as the EIR amply documents, the PM10 and NOx emissions are related to the construction of the project, are just over the threshold for significance documented by the AQMD handbook, and only are over this threshold because the EIR, in an abundance of caution, aggregated all construction emissions as if the project were constructed as a unitary project and not in phases.

COMMENT 100: Air quality data from EIR 447 was not relied upon in this report entirely, and air quality data was the subject of a separate technical study prepared specifically for this project.

COMMENT 101: There are no sensitive receptors in the project vicinity, and significance thresholds are clearly identified.

COMMENT 102: The commentor has selectively quoted a single sentence out of the entire Air Quality Analysis for the EIR to stand for the proposition that the carbon monoxide analysis is inadequate. Although it should be obvious why a carbon monoxide "hot spot" analysis is not necessary, this explanation is offered.

The carbon monoxide hot spot analysis is a computer-modeled analysis of high levels of carbon monoxide associated with either the contributions of a project or the vicinity in which the project is located. It requires a very high volume of traffic, similar to a very major arterial operating at full capacity or a freeway. No such conditions exist in this project. Secondly, because the project contributes so little traffic, neither will the carbon monoxide levels increase to the proportions necessary to initiate a carbon monoxide analysis with this project. Therefore, a carbon monoxide analysis is not necessary. No comments from the Air Quality Management District were received on the EIR objecting to the manner in which the Air Quality study was performed.

COMMENT 103: The acreage of the project specified on page 65 is correct based on the explanation offered previously in these responses. Similarly, the air impacts for demolition of existing structures are very small, temporary, and not significant for examination. The commentor contends that the DEIR incorrectly states the volume of PM10 emissions. There is a small typographical error in the table which will be corrected in the Final EIR table, but the conclusion remains the same. The commentor's observation that a comparison of project emissions to regional emission levels — a customary requirement in an air quality study — somehow indicates bias on the part of the DEIR preparer, is unsubstantiated and unwarranted.

COMMENT 104: Similarly, this comment derives from a misunderstanding of the traffic calculation. The analysis in the EIR is correct.

COMMENT 105: Please see the response to Comment 102.

COMMENT 106: It is not understood what the commentor would want to achieve by knowing the degree to which federal and state air quality standards are projected to be exceeded in the air basin in the future. The project is consistent with the AQMD, which assumes the General Plan level of development as acknowledged by the commentor. It would be an unfair characterization of CEQA, indeed, to suggest that a project which is consistent with the General Plan — the jail — must address the cumulative impacts of projects which are inconsistent with the General Plan (as alleged by the commentor, the El Toro Reuse Plan and Irvine Planning Area 30). Therefore, these comments are not well taken.

COMMENT 107: This is an editorial comment that does not indicate anything other than editorial preference.

COMMENT 108: The County has agreed in mitigation to shoulder its fair share of the funding for construction of public facilities. For example, if a bicycle lane is to be constructed on Alton Parkway, the County will build that bicycle

lane in the first phase of the jail, when the jail is constructed. There is no such thing as a “project occupancy permit” for the jail, and the commentor is probably confusing Certificates of Use and Occupancy which are issued for privately constructed dwellings.

COMMENT 109: The comment in the Draft EIR is correct. Project construction PM10 levels are insignificant after mitigation for two reasons. First, because the amount of the PM10 levels in construction is over the threshold by so little, virtually anything that is done by way of mitigation reduces the impact to an insignificant level.¹ It is not necessary to quantify the effectiveness of mitigations for a second reason. It is obvious — and reported in the EIR — that the jail will be built in phases. Since it has previously been explained that the PM10 emissions for construction for the jail were aggregated for all phases of the project, it is obvious that the PM10 levels will be below thresholds as the project is constructed by phase. Although the commentor states it believes that it is unlikely PM10 emissions will be reduced by mitigation, the commentor does not explain why it holds this belief. The Musick Jail Expansion Air Quality Assessment does not state that the nitrous oxides will be significant as a fact. What is meant by this, and what is stated at page 9 of the Air Quality Analysis is that the project emissions for nitrogen oxide exceed the arbitrary threshold established by AQMD. What the consultant indicates is that there is a difficulty with considering this significance threshold absolute in that the emission level forecast in the CEQA Air Quality Handbook of AQMD is based on U.S. EPA standards for point source emissions.

Therefore, while the NOx emissions are over the threshold, they are not considered significant for two reasons. First, the mitigation measures will assist in reducing any effect found as a result of this project. Second, the AQMD basis for this emission as a threshold cannot be regarded as an absolute, any more than the County could look away from a project that had an obvious impact to nitrogen oxide just because it was below the AQMD threshold. The rule of reason is required in this instance to evaluate the project and determine whether there is an actual significant effect. It is believed that the EIR, with mitigation, has reduced this effect to an insignificant one, particularly when it is taken into account that the AQMD regional model already includes uses on this site consistent with the General Plan.

Personal communication, Fred Greve, Mestre-Greve Associates, October 9, 1996.)

COMMENT 110: This observation is a statement that is made in the AQMD's own Environmental Impact Report for the AQMP. It is not necessary to repeat it here and it is not relevant to the project in any event.

COMMENT 111: It is not necessary to summarize the "key finding" of Final EIR 447. The drainage improvements for Borrego Canyon Watershed have been completely planned in connection with the construction plans for the Alton Parkway extension. The project is consistent with those plans, and the Alton Parkway extension — complete with drainage and road improvements — was considered in the FCPP EIR. In addition, the County caused the Kennedy/Jenks Engineers Report and the plan to be reviewed by professional engineers at the firm of Robert Bein, William Frost and Associates. This is significant since Robert Bein, William Frost and Associates was also the firm that prepared the Alton Parkway extension documents, and would be in the best position to determine any effects. Drainage facilities are underground from the jail site to the major drainage facility, and there are no unusual issues.

Not does the commentor suggest that there are any unusual issues or impacts. This simply seems to be a search for more information that would explain the project, without any attention to whether the information would lead to the discovery of impacts or further mitigation. Notably, the drainage improvements for Borrego Canyon Channel remove the site from the flood plain and must be built in connection with the project, because they cannot be separated from the Alton Parkway extension construction.

The remainder of the comment has no application to this EIR. An EIR is not an instructional document on how to understand NPDES permits or water quality management plan requirements. The EIR is a document that evaluates impact and decides how that impact will be mitigated or eliminated. The full site's drainage — which is 100 acres — is addressed, as is the depth of groundwater in the "Soils and Geology" section of the EIR (page 55). Therefore, all of the concerns of the commentor have been identified.

COMMENT 112: As explained in a previous response, such thresholds are not required by CEQA, nor are they relevant to an impact assessment.

COMMENT 113: Please see response to Comment 111. The EIR clearly identifies the 100 year flood plain in the text in the fact that the Alton Parkway improvements take the project out of the flood plain in view of this disclosure. The commentor still persists in saying the information is not there. Further, it is easy to see from the lay of the land which direction the water flows — it is obvious it flows toward Borrego Canyon Wash.

The project does not divert drainage but rather places the offsite drainage in pipe and conveys it to the appropriate facility. The engineer's analysis is for the specific purpose of analyzing whether the increase in runoff volumes causes capacity problems downstream and concludes it does not. The commentor offers no evidence to argue with this conclusion. Furthermore, as repeatedly stated in the project report for Alton Parkway, in the EIR and in the FCPP EIR, Borrego Wash improvements are acknowledged for the implementation of Alton Parkway. They are not necessary for the project.

As regards the observation by the commentor that it is "common practice" to consult with involved agencies, consultation did occur. The County Department of Public Works thoroughly reviewed the conclusions, and the EIR consultant made use of the engineer who actually prepared the Alton Parkway project report. This is specifically referenced in the Environmental Impact Report, and the commentor does not offer any evidence to the contrary. There are no impacts to Serrano Creek, and to the extent there were impacts to any creek as a result of agricultural activity, they would be *reduced* by this project, since the agricultural acreage on site is being reduced. As noted in the "Soils and Geology" section, groundwater is more than 30 feet below the site, in the southwest corner of the site, and will not be encountered during excavation. The allegation that the groundwater is contaminated is not supported with any references to documentation.

COMMENT 114: Fortunately, the cumulative impacts to hydrology were already taken into consideration when the FCPP and the Alton Parkway project report were drafted. Therefore, downstream improvements will be adequate by the time the project is constructed in order to accommodate this project.

COMMENT 115: The first part of this comment is editorial and has been responded to previously.

The second portion of this comment proposes a mitigation measure that is actually part of the project. Borrego Wash drainage improvements — because they are part of the Alton Parkway project improvements — in the vicinity of the project will be constructed with the project, since it is explained in the EIR that this is the only way Alton Parkway can be constructed. Since these improvements eliminate the 100-year flood zone, there is no danger to any electrical vaults or other water-sensitive facilities.

With respect to the mitigation measure, since there is no possibility the project will encounter groundwater at all, let alone contaminated groundwater, there is no need for this mitigation measure.

COMMENT 116: Obviously, this mitigation measure is unnecessary because drainage improvements have to be in place due to the Alton Parkway extension.

COMMENT 117: Contrary to the statement, the EIR clearly indicates whether drainage from the site can be accommodated downstream. Since the downstream facilities are sized for upstream development, the only issue is whether this project presents a seriously different environmental picture, which the engineers have determined it does not.

COMMENT 118: It is difficult to understand why a map identifying the locations from which site photographs were taken is necessary when each site photograph contains a caption indicating exactly where it was taken from.

COMMENT 119: CEQA does not have thresholds for significance for aesthetic impacts, nor is the manufacture of such thresholds required by CEQA.

COMMENT 120: The project description includes elevations of the buildings showing their general design.

The discussion regarding the height limitation for Pacific Commercentre is correct. The zoning shows the height as 35 feet, although greater heights are permitted by specialized permit. A telephone conversation between Gayle Ackerman and the EIR consultant in June requested data on whether any site plans had been submitted to the City for review, or whether the City had any viewpoint on the types of heights that would be permitted in the area. Ms. Ackerman responded that no specific development proposals for the Pacific Commercentre in that area had yet been submitted and referred the EIR consultant to the zoning alone. The "Aesthetics" section, nonetheless, considers heights at 35 and 50 feet. Unlike the Katella-Douglass jail which was 10 stories in height, the variation in the jail heights with the surrounding development, particularly when the difference in topographic elevation is taken into account as explained in several places in the EIR, is insignificant.

COMMENT 121: This mitigation measure is *accepted*. The arrangement of the agricultural acreage would total ± 22 acres. No jail or other construction other than agricultural buildings will occur in this area.

No buildings exist in Pacific Commercentre proper at the present time. A tire store is on a small parcel adjacent to the jail site and west of Bake Parkway. Therefore, it is not possible to provide cross sections from the upper stories of Pacific Commercentre buildings, since it is not known exactly where those buildings will be located. It should be noted by the commentor that the Theo Lacy Branch Jail in Orange has a significant

office development in the vicinity which looks down on the jail, and yet the office development is successful. In any event, the anecdote recited regarding the fact that one of seven brokers contacted believed the jail would be a disincentive to tenants locating in the area is irrelevant in CEQA unless it can lead to physical impact, something the commentor does not suggest.

COMMENT 122: As is clearly shown in Exhibit 15, it does not matter whether the buildings in Pacific Commerce are analyzed at 35 feet or 50 feet, since the site line in all cases penetrates the 35-foot elevation. Furthermore, as can be seen from the photographs in Exhibit 12, the trees existing along the periphery of Musick are the principal visual barrier, not the buildings, in any event.

The EIR contains significant mitigation measures for obscuring the fence, creating an office-appearing facade and preparing landscape plans. Sufficient guidance is given for these documents in the presentation of a landscaped pallet and the awareness of the need to be compatible with office buildings. The County has considerable experience in implementing this form of mitigation measure, as it is highly similar to that implemented for the Theo Lacy jail in Orange. A review of the new buildings at Theo Lacy in Orange give an office-appearing facade, and this is the theme that would be followed in this project.

COMMENT 123: The commentor is in error. The referenced document indicating that the EIR consultant "indicat[ed] doubt as to the wall's viability from a security viewpoint" was actually a handwritten comment made by Sheriff's Department staff. Notwithstanding that comment, the EIR consultant included the wall after discussing the manner with Sheriff's Department management staff and determining there was no security issue in this case. The wall is considered necessary by the EIR consultant, and by the County, to screen the appearance of the fence from Alton Parkway.

With respect to the commentor's allegation that the jail has a "fortress-like appearance," it is wondered whether the commentor has visited the Theo Lacy Jail building in the City of Orange. Most persons interviewed passing that building in past County studies have indicated they did not know it was a jail. The building has an appearance of a standard, pleasant-appearing institutional building. Furthermore, large setbacks are incorporated into this design, whereas the Theo Lacy Jail building is located very close to the right-of-way for The City Drive in Orange. It is a well accepted maxim in planning that a setback will reduce any massiveness of appearance that is feared for a building.

The wall is to be landscaped, and the indication that design elements will be included to the extent it is consistent with the security at the facility only relates to the distance of the trees from the wall. This is an accepted norm in any landscaping design next to a wall where trespassers are not desired.

It is false to assume that the design elements will not be built. Contrary to the commentor's assertion, the County has a demonstrated record in this area and is entitled to the assumption that it will carry out the mitigations in this area. It is believed that the commentor misunderstands the statements of the DEIR 564 with respect to the fact that the wall and landscaping be included in the EIR. The drafter of the EIR wanted the wall and landscaping to be included in the project, and it was. It was designed to minimize the impact. Furthermore, the commentor incorrectly assumes that the sketch of the wall was provided by the EIR preparer. The sketch of the wall was provided by County EMA, Harbors, Beaches & Parks design, to the EIR preparer who forwarded it to the Sheriff's Department. The handwritten comment on the fax transmittal prepared by Sheriff's Department Facility Planning staff was not accepted either by Sheriff's Department management or by County EMA. If anything, the commentor's recital of the history of this wall indicates the diligence of the DEIR consultant and the County of Orange and ensures the wall with landscaping was included in the EIR. The exhibit is shown as conceptual because if there were a commitment to actual distances in the exhibit, a mere change of a foot or two when the wall is implemented might cause persons to believe the County was not maintaining its commitment.

Amazingly, in view of the strong role of EMA and the EIR consultant in *reducing* impacts for the EIR via this particular measure, the commentor concludes this is somehow inappropriate. The commentor states, "the communication starkly evidences that the DEIR process has impermissibly been driven by the County's desire to conclude that there will be no significant impacts from the project." It is difficult to believe that any consultant experienced in the California Environmental Quality Act would make such a statement. Clearly, neither the consultant who prepared this comment nor the City seem to understand that the exact goal of CEQA is to attempt to reduce all impacts to an insignificant level. To be held up to criticism because the County was making an aggressive effort to do so, is beyond understanding.

Once again, the commentor returns to the idea that there will be stockpiling on the site. There is no stockpiling proposed. Therefore, there is no need to amend the view impact assessment.

COMMENT 124: The EIR must only include a discussion of cumulative impacts where significant. This is the law. There are no cumulative impacts in this area which are significant.

COMMENT 125: The initial part of this comment is an editorial remark and does not raise any environmental issues. The suggested mitigation measure is *accepted*. It was the intent of Mitigation Measure #31 to incorporate this measure. However, these ideas are accepted and will be incorporated into the EIR Mitigation Measure #31.

Similarly, the County *accepts* the mitigation measure indicating the final project design will meet or exceed the setbacks and farming buffer established in Exhibit 13.

Finally, the mitigation measure requiring the jail complex not exceed 35 feet is rejected due to the fact that the jail complex does not cause any impacts at 45 feet and, therefore, this mitigation measure is not warranted. It has been noted in responses elsewhere that it is a common occurrence for industrial uses to grow in height over time — the phenomenon sometimes known as the “incubator industrial” phenomenon. A living example of this phenomenon can be seen in the Irvine Business Complex which was once the Irvine Industrial Complex, a series of low-rise buildings. This is a normal phenomenon for industrial parks, and will probably occur in this area.

COMMENT 126: This comment is acknowledged. The commentor is incorrect. Even without the acceptance of the mitigation measure of 35 foot height limitation, impacts are not significant.

COMMENT 127: The EIR’s position is that there are no cumulative impacts in this area, and the law states that the cumulative impacts should be described only where significant. The commentor does not describe what impacts are considered cumulatively significant, or how any dimensions of this analysis under CEQA require further treatment than that given in the EIR. CEQA is very clear — the EIR does not engage in roundabout analysis of impacts just for the sake of analysis. Impacts must be significant in order to be described. Absent the commentor identifying those impacts (which the commentor has not), no meaningful response can be made.

COMMENT 128: Please see the response to Comment 1 of the Orange County Transportation Authority regarding cumulative impacts. The analysis does not need to consider reuse of El Toro. Reuse of El Toro is a proposed project which has been acknowledged in the "Cumulative Impacts" section and which EIR has been incorporated by reference. The

idea behind cumulative impacts is that cumulative impacts are discussed when significant. If two or more projects combine to produce cumulative impacts of significance, even though the individual impacts may not cause impacts, then cumulative impacts must be discussed regarding the projects taken together. However, in this case the EIR is such a small proportion of the impact scenario for the existing project area development over time, let alone if and when the Reuse Plan is implemented, it would be ludicrous to find that cumulative impacts are significant. The commentor fails to understand the “ant vs. elephant” aspect here. By looking at the impacts in the way the EIR has, impacts have been *magnified* rather than *diluted*. In essence, the maximum impact for the jail in the setting for the area has been identified. The remaining comments indicating deficiencies in the EIR are incorrect for reasons stated elsewhere in this response. There are no violations of standards, and although the concern regarding exposure of farm workers to unacceptable noise levels is appreciated, the farm workers (minimum security inmates) have been working in the agricultural areas under much higher noise levels (i.e., when the military base was more active) for many years. Since they volunteer for the work, this is not an unacceptable condition. As noted in the EIR, the Interim Care Facility will have to be attenuated for the noise levels on the site. However, since the jail — and the ICF — will not be occupied until after the Marine Corps ceases operations, and the Marine Corps operations are the principal noise impact on the site, there is no introduction of a residential use into an unacceptable noise level.

COMMENT 129: Please see response to the commentor's complaint elsewhere in these responses. The commentor fails to point to a section of CEQA that indicates that the reader must be spared the annoyance of looking at other documents it may desire to look at rather than rely on the information included in the EIR.

Also, in view of the robust discussion participated in by the City of Lake Forest on the Reuse Plan, the request to explain CNEL, dB, and dBA is quite surprising. No other commentor has requested this definition, and in view of the obvious sophistication of the City of Lake Forest in this area — including the fact that the City of Lake Forest's Noise Element describes these definitions — it is not necessary to define them in the EIR.

COMMENT 130: The complaint of the commentor regarding the inconvenience of going to the technical appendices, as is permitted by CEQA, for an explanation of the County's land use compatibility standards that is completely summarized in the EIR and which impact is identified is invalid.

The FHWA noise model is a highway noise model and cannot be adjusted to account for non-roadway noise sources. Other noise models are used for non-roadway noise sources. The commentor is referred to Exhibit 17 for a description of existing aviation noise levels and to Exhibit 18 for noise level information on potential El Toro aviation reuse noise impacts on the site. Exhibit 18 also shows noise contour locations for existing and historical military operations. There is no need to perform any additional noise modeling for non-roadway noise sources as all of the relevant and necessary information are contained in the Exhibits referenced above.

The commentor request for comparison actual field noise measurement readings for comparison to FHWA model outputs is unnecessary. The critical factor is the change in noise level caused by the project, which cannot be measured. Only existing noise can be measured, future noise can only be modeled. Clearly, there is no field measurement that can define this difference. Further, given that the noise impact of the project on roadways adjacent to residential areas is less than 1/10 of dB, there is no reason to suspect or investigate whether existing noise levels will cause a violation of relevant noise standards. Under no circumstances can an increase of less than 1/10 of a dB be construed as significant or requiring mitigation.

With respect to the comment that the DEIR should provide a map showing the existing and zoned land uses along each of the roadways studied with an overlay of the CNEL contours, the City is referred to its own Noise Element. As a matter of state law in connection with the adoption of the Noise Element, the City was required to publish such a map. The reader can determine the effect of noise, since later in the commentor's remarks, the comment acknowledges that only a noise increase of 3 dBA or more is significant. Table 15 indicates that the long range cumulative increases for all noise levels are less than 1/10 of 1 dBA for all roadways passing residential areas, the only sensitive receptor. Although some noise increases approach 2/10 or 3/10 of a dBA, this is still a considerable difference from the minimum threshold that is considered perceptible to the human ear. Therefore, this type of information in the EIR is a useless exercise in view of so small an impact.

The jet data for the actual number of jet operations for each of the last ten years is irrelevant. The base will not be operating by the time this jail opens, and therefore, it makes no difference what the annual jet operations are. With respect to the section reference, the section should actually read Section 9. This will be corrected in the Final EIR. Exhibit 17 is a common exhibit that is well known to the City of Lake Forest,

and its source is identified. The site is identified on the exhibit. It is of no practical value except as an indication of the AICUZ boundary, since the County's Reuse EIR indicates the noise level for the military operations is no longer at that level.

The County is under no obligation to indicate "criteria" to determine whether impacts are significant. The noise threshold information is not relevant. An expert was hired to review the noise impacts for this project and has determined that the impacts are insignificant. There is no evidence produced by the commentor to suggest otherwise.

COMMENT 131: Exhibits suggested as being included from the technical appendices are not relevant because they do not show significant impacts. The technical appendices were distributed with the Draft EIR and therefore, no reader was deprived of the ability to examine these impacts.

It is an amazing statement for a CEQA practitioner to state that one does not wish to review technical appendices. While the EIR is written for the ordinary layman to review, CEQA practitioners and professional staff are expected to examine more than the EIR. The inclusion of volumes of data in an EIR generally inhibits the public's understanding of the project. This is specifically addressed in CEQA. This comment is, therefore, rejected. Contrary to the commentor's assertion, the appendix does not indicate that the cumulative development, taken in combination with this project, will result in significant cumulative traffic impacts. To the extent that the comment is referring to the fact that traffic noise will increase in this area, this has been taken into consideration in the FCPP EIR and in this noise study, and the EIR here by virtue of looking at long-range implications. The County disagrees that the EIR should make different statements regarding impact, thresholds of significance or that the EIR uses ADT levels which are too low.

COMMENT 132: This comment is totally incorrect. In the first case, there is no violation of any County land use compatibility standards, let alone any standards of other agencies. In fact, the commentor does not even allege that point. Furthermore, the change in noise level is minuscule and is incapable of producing any effect individually or cumulatively in noise levels. For example, the commentor refers to a change in noise level from 59.5 to 60.1 *in spite of the fact that no change as large as this range is even predicted in the EIR*. By the commentor's own admission, changes of 3 dBA represent significant impact.

COMMENT 133: For reasons stated earlier in this response, this comment is inaccurate. The commentor points to no standard that indicates that in some way

minimum security prisoners engaged in farming-related activity cannot be exposed to noise levels such as might be produced on Alton Parkway.

COMMENT 134: This comment expresses the commentor's incredulity that somehow the civilian airport produces less noise than a military airport. However, to practitioners in this area and those familiar with Orange County, this is a well known fact. Therefore, this comment is not well taken and is not correct.

The comment about the Interim Care Facility including an outdoor use is partially correct. The Interim Care Facility, if it is ever located in this area, will include an outdoor use such as a sport court. However, as amply demonstrated by the data in the EIR, this recreational facility would be outside of the 65 CNEL for a civilian airport, and will not be constructed and operational during the time the military use will still be in operation. The standard of "one week or less" is not a standard found anywhere in known references, and it is not referenced by the commentor as to where this standard is derived.

COMMENT 135: The EIR does contain a discussion of cumulative effects, and as required by CEQA they are only discussed where significant. The only place where cumulative effects are significant is with respect to intersection improvements such as traffic. It is amply demonstrated in Section 9 and in the Reuse EIR that there is no cumulative effect mechanism when this project is combined with the Reuse Plan.

COMMENT 136: The mitigation proffered makes the assumption that somehow there is enormous construction traffic associated with this project. This was not the case when the jail was built in the City of Orange and will not be the case here. Materials are brought on site and constructed on site, using conventional or module methods. This is described in the EIR. The commentor does not provide any evidence that the EIR is wrong in this area, and therefore, the EIR does not require this mitigation. In fact, the mitigation appears to be intent on collecting funding from the County for violations. The route for construction traffic will not be through residential areas. Therefore, it is not understood what impact is sought to be addressed here.

Testing for interior noise levels of residential uses is unnecessary. There is no increase in noise level that is even perceptible to the human ear, let alone creating an increase in noise levels. Therefore, this comment is rejected.

The mitigation measure suggesting funding for park improvements to offset the loss of private outdoor recreational opportunities is not

understood. In what way has this project affected private outdoor recreational opportunities?

Noise levels on this site when the project is operational are not high enough to warrant any kind of noise mitigation for personnel. Similarly, the mitigation measures regarding the ICF are rejected, as the ICF will be in the type of noise level, if it is built at this site, that an ordinary single family residence would be permitted in. There is simply no basis for these mitigation measures.

COMMENT 137: As explained in other responses, project impacts and cumulative impacts have been properly addressed.

COMMENT 138: The commentor's assumptions are entirely incorrect. The commentor makes a gigantic leap of logic by indicating that somehow there are biological resources, not previously addressed elsewhere, that are affected by this project. This is not the case. The FCPP EIR, Final EIR 447, and the project EIR itself, all describe the resources affected which are so small as to be virtually nonexistent. Even the Department of Fish and Game did not respond on this project, indicating their lack of interest in the environmental resources except to the extent of the mitigation measure.

COMMENT 139: No such significance thresholds need be established for this area, as explained elsewhere in these responses.

COMMENT 140: Please see Response to Comment 139 and earlier responses on this issue. The only mitigation measure necessary is the one proposed. The impact judgments have been based on the site, which was extensively reviewed during the NCCP process and personally inspected by the EIR consultant. The Alton Parkway documentation also evaluates the wetlands losses and identifies the acreage. This is all reported in the EIR. The criticism that biological resources discussions were included in the "Land Use and Relevant Planning" section and should have been included here is not well taken. The "Land Use and Relevant Planning" section discusses the natural community's conservation program (NCCP), which was one of the largest planning programs undertaken by the County in recent years.

COMMENT 141: Cumulative impacts are addressed only where significant, and they are not individually or cumulatively significant in this case. The commentor produces no evidence to suggest they are.

COMMENT 142: Aside from the editorial comments, the mitigation measures are completely inappropriate as a response to the "Biological Resources"

section, due to the fact that none of the resources targeted are affected by the project. In fact, the NCCP area is separated from the project site by 12 to 15 acres of land that will be agriculturally used. Therefore, there is no basis for concluding there is any impact, and therefore, no authority to mitigate.

COMMENT 143: Please see responses to previous comments.

COMMENT 144: Cumulative impacts are not individually or cumulatively significant as documented in the EIR.

COMMENT 145: No thresholds for significance are necessary, as explained previously in these responses.

COMMENT 146: As explained previously, there are no proposals that Complexes 1 and 2 are to be raised 3 to 4 feet in height. The analyses of aesthetics and lighting were taken with the pad elevations of the buildings in their finished elevation state.

COMMENT 147: There is no individual or cumulative effect as a result of this project.

COMMENT 148: Since there are no impacts, there is no need for mitigation or cumulative impact discussion beyond what is provided.

COMMENT 149: The first two paragraphs of the "Land Use and Relevant Planning" section are hardly defensive and are entirely appropriate. During the scoping meeting there was significant confusion on the part of members of the public as to what CEQA actually requires in the way of impact assessment. Some speakers seem to be of the opinion that the EIR's purpose was to be a sort of staff report on the project, and not focused on the physical environment. Since many persons indicated interest in reading the EIR, it was necessary to educate the public as to what CEQA requires and what discussions are limited under CEQA. This was necessary to ensure the public did not receive an incorrect impression of what CEQA was actually capable of achieving with respect to their comments. It is simply inaccurate to state that the EIR does not provide substantial evidence for the conclusions in this section.

COMMENT 150: There are no other sites which make up the project, and the Zoning and General Plan Land Use designations for the site are clearly discussed. The conveyance parcels are not part of the project. Zoning for Borrego Wash and Alton Parkway is irrelevant, since these properties will not be used for land uses, but rather for infrastructure.

COMMENT 151: This comment is inaccurate for the same reasons as in the Response to Comment 150.

COMMENT 152: This information need not be added to the EIR at this point, but is acknowledged in this comment. It has no effect on the conclusions in the EIR.

COMMENT 153: The response to the comments referenced appears in the appropriate sections. The project is consistent with the AELUP.

COMMENT 154: The County disagrees. The Part 77 Study was undertaken by the EIR consultant in conjunction with the John Wayne Airport Authority professional personnel experience in this area. Part 77's criteria are clearly stated in regulations, and the County followed them carefully. Since these criteria were applied for the largest commercial airport to be considered at the Reuse Plan (Alternative A of the Reuse Plan EIR), military operations were not considered because the jail would not be built before the Marine Corps had departed the area, this approach is correct. Even so, Part 77 analysis shows that any indication for height limitations on the site is restricted to the upper portions of the site, and not where the majority of the buildings are situated. This is clearly explained in the EIR. The commentor is incorrect, as discussed previously, that the project must be referred to the County Airport Land Use Commission. This is clearly explained in the EIR at pages 116 and 117. The commentor offers no evidence to dispute this conclusion other than the bald assertion that somehow the County should undertake a rezoning of the site (completely unnecessary from the perspective of the *Government Code*) and could somehow "open the door" to force itself to go to the Airport Land Use Commission. The commentor is incorrect in the assumption that the EIR inappropriately classifies the jail facility to other facilities. Because institutional facilities are rarely considered to have any land use sensitivity in this area, it is necessary to analogize this facility. Because this facility is totally enclosed, there is no noise impact. It is also important to recognize that the jail facility has existed at the project site since 1963 and predates the adoption of Airport Land Use Commission laws. To the extent that any noise criteria applied to this jail project, the County General Plan has subsumed the necessary criteria as indicated in the EIR. The EIR does, therefore, not pick and choose uses, but rather analogizes in a case where there is no clear indication of this specific land use under study.

Finally, a review of the Reuse Plan EIR, incorporated in this EIR by reference, makes clear that the clear zones and accident potential zones, as well as the horizontal surfaces and height limitation areas around the proposed civilian airport, do not affect this property even to the degree that the military use has affected it. Therefore, the discussion remains adequate.

COMMENT 156: Again, the proposed project does not include the conveyance parcels, and it would not matter if it did with respect to the NCCP. The NCCP clearly has even adopted criteria concerning the 12- to 15-acre conveyance parcel, and this is not surprising since Final EIR 447 calls for the agricultural use of this parcel by the Sheriff's department.

COMMENT 157: As explained previously, thresholds of significance are generally irrelevant when established as generalized standards as opposed to a site-by-site analysis.

COMMENT 158: Exceeding the floor area allocation for the institutional land uses in PA35 is not a significant impact of the proposed project. The project is not located in the City of Irvine, and even if it were, the zoning of the City of Irvine would not apply to this project. Notably, the City of Irvine itself has made no objection in this regard. The commentor misunderstands the relevant laws concerning the location of County facilities. There is no showing that the proposed project, even if it exceeded the floor area allocation for the institutional land uses, would have any effect on the environment. All aspects of infrastructure capacity are carefully analyzed in the EIR in the appropriate topical sections, and there is no evidence that the commentor provides that this is not correct. The commentor's unsupported criticism of this approach or allegations of their impact, absent such evidence, is not valid.

Furthermore, the restrictions on bail bondsmen and sexually oriented business cannot be made a mitigation of this project since the County is without ability to zone property in the City of Lake Forest or the City of Irvine. However, the County has voluntarily accepted this restriction on the Reuse Plan area.

COMMENT 159: The County disagrees that anything in this section needs to change to address parcels which are not part of the project. The County Health Care Agency has requested the site at Musick and therefore, has already performed its siting criteria. If there is a difficulty with the site at Musick because of siting criteria from the state's perspective, then the ICF will not occur there. As a state licensed facility, the state's approval is indispensable in this regard.

The jail is not in "close proximity" to residential development, but nearly one-quarter mile away. This is a similar distance from the Theo Lacy branch jail in Orange to residential, and is considerably more distance than the distance from the Main Jail complex to residences in Santa Ana. Interestingly, later in this comment letter, although the commentor appears considerably concerned about the jail in proximity to residential development, there is no sympathy for the fact that residences will have

to be *removed* in order to expand the jail at Santa Ana, an alternative considered in the EIR.

COMMENT 160: None of these mitigation measures are appropriate for the project. The County has included a measure that prior to commencement of grading for the project, the appropriate notices to the FAA in connection with Part 77 will be done. The study has been undertaken but has not been formalized. All that is necessary is sufficient information to demonstrate that the County can meet the requirements of Part 77, and this has been done.

The mitigation measure regarding use of the conveyance parcel adjacent to the NCCP being prohibited reflects that the commentor has not reviewed the NCCP, which has specific information within it to allow the use of this parcel. Therefore, this mitigation measure is not accepted.

Similarly, with regard to the Reuse Plan (the only area available for bail bondsmen and sexually oriented business within two miles of the jail facility controlled by the County), has been subjected to the mitigation referenced in the EIR. However, it cannot be imposed on the Reuse Plan through this project; it must come from the Reuse Plan itself. Of note is the fact that within two miles of this facility is a sexually oriented business operating in the City of Lake Forest.

As part of the circulation of the Draft EIR, the County did give notice to the FAA, and the FAA has not responded.

With respect to the suggestion to amend Mitigation Measure #44, it is not understood what impact this mitigation measure is attempting to reduce as a differentiation from the mitigation measure proposed. The mitigation measure in this comment simply seems to attempt to complicate Mitigation Measure #44 to no foreseeable benefit.

COMMENT 161: The intensities of the project are not incompatible with the allowable intensities of PA35, and this is simply an expression of unsubstantiated opinion by the commentor. There are no on-site land uses and compatibilities associated with the ICF that have not already been reported. The project has addressed significant cumulative effects.

COMMENT 162: This comment makes a series of unsubstantiated allegations regarding significant impacts and failure to support with sufficient evidence the conclusion drawn. It provides no evidence to contradict the evidence in the EIR.

COMMENT 163: Once again, as explained in responses to previous comments here, the commentor relies on a 10-year-old EIR that was prepared before there was the ability to actually measure in the field the relationship between released inmates and crime with respect to this type of facility.

The application of CEQA §15126(a) has been examined in case law. In fact, the reference appendix of the Guidelines and the statement selectively pulled from that appendix were originally generated to address the types of facilities that create public health hazards such as emissions, odors or risk of contact with dangerous chemicals. Nowhere in the Guidelines is a risk to public safety considered a risk to public health. Even recent case law is very clear that CEQA is not a tool for analyzing public safety issues due to the introduction of "undesirables." This is clearly explained in the preamble to the "Public Safety" section. The County is simply in legal disagreement with the commentor on this point. The County could have left this discussion entirely out of the EIR, and not attempted to educate the public, and still had an adequate EIR.

Additionally, the commentor incorrectly states that the County has made efforts to exempt jails from CEQA. Although the County Administrative Office proposed such an exemption in the 1992 Short-Term Jail Solutions Report, the Board of Supervisors decided not to pursue it. It is true, and the legislative record supports the view, that the willingness to exempt state prisons from CEQA reflects the legislative decision that facilities should be brought on line despite impacts. The legislature wished to bring on important public facilities which may be locally undesirable. It is not a correct statement to assert that the EIR suggests that the legislature did this because they do not believe prisons have environmental impacts.

The commentor's assertion that the EIR must discuss impacts to public safety that are merely alleged due to the lack of support for including released inmates and the introduction of their visitors into the area is completely and totally outside the realm of CEQA. Changes in property values, vandalism, loss and damage to public and private property are hardly the types of physical effects that the case law supports looking at with respect to socioeconomic effects. The County stands by its conclusion that there are no significant effects to public safety, and even if there were, they are not compensable under CEQA unless it can be shown that there is a direct physical impact.

The fact that CEQA eliminates this type of review is easily understood once opposition to the project is set aside for a moment. Following the oil spill at Santa Barbara in 1969, the California legislature decided it was time for the California Environmental Quality Act to be established

to cause decisionmakers to examine the impacts to the physical environment. It is an ecology related law, not an arena for public debate over locally undesirable land uses. While it is true that the California Environmental Quality Act is often used and abused in this latter manner, it is a fact that the law does not address itself to these issues.

However, the EIR provides substantial evidence that there is no effect from crime or vandalism around the existing County jails nor around the Musick jail. Therefore, there is no need to declare a significant impact.

COMMENT 164: The DEIR has presented escape information from other County facilities by incorporation of the information from the Theo Lacy Branch Jail EIR and discussions in this EIR. The only buildings comparable to the buildings proposed are the Theo Lacy Jail in Orange (the new buildings) and the Intake and Release Center in Santa Ana. There have been no escapes from these buildings.

The existing Musick Jail has not been an "honor ranch" for over 20 years. It is a secure facility and contains both violent and non-violent misdemeanants. Again, the commentor places invalid reliance on a 10-year-old EIR which was written before the types of facilities that now exist were constructed and evaluated. Therefore, this reliance is misplaced.

COMMENT 165: The County need not demonstrate the rate of escape, etc. in comparison to other jails in the nation, when there have been no escapes from this type of facility in the County. The IRC has been in existence since 1988 (eight years) and the Theo Lacy facility in Orange has been operational since 1993 (nearly three years). If there were going to be escapes from these facilities, they would have happened by now. However, the types of escapes the County has endured, both at Musick and the other jail sites in the past, have not been from the types of buildings that are now being proposed.

The training received by the Sheriff's Department personnel working in the jail system is among the highest in the nation. However, it is the physical arrangement of the facility, in addition to the training, that allows a lower — and more economical — ratio of staff to inmates.

COMMENT 166: The EIR consultant, through service availability letters, consulted with the City of Lake Forest before the Draft EIR was issued for public review. The response to the EIR was that another 24-hour shift (approximately 5 people) was necessary to satisfy the perceived needs of the City. This information was provided in a telephone conversation with Mark Pulone, Assistant to the City Manager of the City of Lake Forest,

and was reported in the EIR. More is not necessary. The City of Lake Forest contracts with the Orange County Sheriff's Department for law enforcement services, and if the City of Lake Forest wishes to have another 24-hour shift staffed in the City due to the jail, the City of Lake Forest can make that a term of its contract with the Sheriff's Department. The Chief of Police for Lake Forest was not consulted by City management with respect to this issue before the information was transmitted (pers. com., Asst. Sheriff Jerry Krans, 10/11/96).

COMMENT 167: No transportation is provided for any inmate released from any of the jail system facilities to their place of residence. There is no evidence to support the view that inmates will linger in the area following release. On the other hand, the EIR contains substantial evidence that the inmates do not linger or commit crimes in the area.

Moreover, the County has published data from its own facilities, in addition to the Musick Jail. If the Musick Jail facility was the only facility evaluated in the EIR from the perspective of released inmates and public safety, the commentor might have a point that comparable facilities needed to be examined. However, this was what was done in the EIR. It is not understood by the County why data from "comparable facilities" outside the County would be more relevant to the EIR discussion than a review of the County facilities themselves.

Contrary to the commentor's assertion that the statistics regarding crime in the area of Musick Jail are deliberately incomplete and misleading, the information referenced in Exhibit L does not show that there is an increased crime rate in Lake Forest or Irvine. Omitted from the comment is the last sentence of Exhibit L, which indicates that these inmates were not arrested either the day of or the day after their release and may have been rearrested months after their release, indicating that it might be more the character of the arrestee, and not the release event from Musick. Of note has been evidence provided by the Sheriff's Department that 25 inmates and Lake Forest *residents* who were released early from the Main Jail in Santa Ana were arrested in the cities of Lake Forest and Irvine during the time they would have otherwise been in jail. An important fact that the commentor overlooks is that, with the expansion of the facilities to ensure adequate housing for inmates, there will not be the need for early releases.

COMMENT 168: The County EIR has used proper incorporation by reference techniques and, aside from the assertion that it has not, the commentor offers no further insight as to what their objection is.

COMMENT 167: It is not true that the Theo Lacy Jail EIR did not address the question of crime associated with visitors.

The shoplifting and criminal rate in the vicinity of Theo Lacy Jail is no higher than in other urban areas with shopping malls in the City of Orange. In fact, it was found that crime rates at the Orange Mall were even higher than those across from the Theo Lacy Jail. In addition, according to Orange Police Department records, the number of crimes around the Orange Mall over the last 4 years has been steadily decreasing. (pers. com. Assit. Sheriff Krans; 10/11/96).

COMMENT 168: The EIR does use proper incorporation by reference techniques.

COMMENT 169: This statement is incorrect. The Theo Lacy EIR evaluation examines comparative crime rates.

COMMENT 170: Actual evidence was used in the Draft EIR to inquire into the causal relationship between released inmates, visitors and criminal events in the area. Although the commentor describes a study which “controls for all potential spurious and confounding factors by utilizing a true experience, quasi experimental design or mathematical control” is not understood. A review of the arrest rate in the cities of South County presented in Table 6 of the EIR, and when compared with population figures readily available, tends to show that arrest rates in cities are fairly linked with population and the age of the community. For example, the City of Irvine, with a very large population had 1,310 bookings in 1995. The City of Lake Forest had 833 bookings. Both are attractive communities, but Lake Forest is an older community. The population of Irvine is considerably larger than the population of Lake Forest; yet the arrest rate in Lake Forest is not in proportion to the difference in population — it is higher. Similarly, the older community of Dana Point, with an even smaller population, has an arrest rate very close to the City of Lake Forest, and is not near a jail at all. Therefore, the information to answer this question is already presented in the EIR.

COMMENT 171: This comment has been responded to previously.

COMMENT 172: The County has addressed project impacts with the causal relationship, the interview with the Department of Corrections for Baltimore County is valid information and the person referenced is in charge of dissemination of this type of public data for the corrections system.

COMMENT 173: It is a breach of security to answer the question of exactly how prisoners get to their cell or the sallyport. It is plainly shown on the diagram for the jail that the jail buildings are connected. Short of moving through

this system or corridors, any additional information will compromise the security measures associated with the jail.

All inmates of medium and maximum security level are transported to the hospital in secured buses with a Deputy Sheriff present.

Once again, the reliance on the 1986 EIR for the proposition stated is invalid.

The number of walk-aways from the ICF is quite small due to its size. The walk-aways from ICF are a temporary occurrence related to the age and conduct of the persons confined there. It would not surprise most parents of teenagers to learn that teenagers sometimes get angry and walk away from their home. This is not an unusual occurrence.

However, the following information has been provided by the Program Manager for the youth services for the County. In 1995 there were 36 walk-aways from the Interim Care Facility, and more than half of them were returned to the facility in several hours. So far in 1996, there have been only nine. One was gone overnight, four were gone for three or less hours, two were gone all day and two left in the late evening. All returned to the facility.

The location of the ICF on this facility provides even less potential for this walk-away occurrence. Since the ICF is situated adjacent to the Southeast Sheriff's Station, and since the site will remain fenced with the currently installed 10-foot fence, the circumstances of this site are quite different from those of Theo Lacy where the walk-aways have relatively free access to the Santa Ana River and the driveway past the area.

There have been no reported criminal incidents outside the ICF.

The Sheriff's Substation is scheduled to open with the first phase of the jail complex. This mitigation measure is therefore *accepted*. The provision of a special officer for the eight peak hours of visiting on visiting days for the parking garages and adjacent areas was provided as a concession to the City of Orange Police Department, although it was never conceded that the parking garages were subject to any type of safety problem due to the jail. The location of the parking structure immediately across from Juvenile Hall was considered the more likely source of the safety and crime rate issue.

The requested discussion of safety in proximity to an airport is irrelevant. The safety of this site is not compromised by the location near a civilian airport due to the fact that it is distant from the flight path at the end

of runway 07. Second, the jail will not be constructed during the period of time that the military are in operation. Therefore, there is no issue concerning aviation concerns. The focus on aviation concerns noted in Subsequent EIR 499 was prior to the advent of the Reuse Plan, where it was uncertain at the time of the drafting of that EIR whether the base would actually close. The commentor may recall that there was a considerable move after the Base Realignment and Closure Commission decided to close the base in 1993, to resurrect the closure issue and the Base Realignment and Closure Commission Report of 1995. The Base Realignment and Closure Commission made the decision concerning the closure of the base again in September of 1995, following the May distribution of the Draft EIR.

The project need not be consistent with existing airport height restrictions because the project is not going to be built or occupied before the military base closes. Therefore, this entire discussion about grading, height and the relationship between military operations is irrelevant. The EIR clearly shows that the Reuse Plan, Part 77 analysis for horizontal surfaces has been complied with. There is no need to indicate authority for this — the authority is Federal Aviation Regulations, is a fairly simple calculation to evaluate, and was facilitated by the fact that the County possessed flown topography for the site and for the airport.

COMMENT 174: This comment has been responded to elsewhere. Cumulative impacts need be discussed only where significant.

COMMENT 175: The editorial comment is rejected as superfluous. The first defense fence as described in the project will be built prior to the occupancy of the project. However, it must be remembered that the building itself is part of the secure perimeter, and the first defense fence will extend through a perimeter building to building. For example, with respect to Complex 1, the first defense fence would connect each module to the inmate programs building, and surround the bus sallyport. No mitigation is necessary for this, since this is the way the facility is supposed to be constructed. To call as a mitigation something that is an aspect of the facility is redundant.

Please see response to letter of comment from Assemblyman Mickey Conroy. To the extent allowed by state and Constitutional law, and with the consent of the defendant, certain types of video appearances can be made. The Sheriff's Department, in the operation of the jail, prefers these appearances since it reduces the bus trips the Sheriff's Department must otherwise undertake. However, as explained in the response to the letter from Assemblyman Conroy, the inmates cannot be forced to make

their court appearances by video, nor do courts have to agree to use this approach. Therefore, the last sentence of this mitigation measure indicating that there shall be no transport of medium and maximum security inmates to court appearances fails due to legal infeasibility.

In view of the extremely safe operation of the jails and the fact that this is not an environmental impact in any event, the Sheriff's Department requires no demonstration of staffing consistent with the National Average. Therefore, this mitigation is rejected.

The mitigation concerning compensation to the Cities of Lake Forest and Irvine for costs associated with policing efforts addresses no environmental issue and is designed as a financial measure. Therefore, it is inappropriate as a CEQA mitigation measure.

The mitigation measure for transporting all inmates to the Intake and Release Center in Santa Ana is a project alternative which is rejected. The prohibition against off-street booking of inmates is also rejected. The reasons for the rejection of the transportation of inmates to IRC for release is explained in the EIR, and the relief provided by allowing off-street bookings at the facility outweighs the objection that the commentor presents to this feature. The commentor provides no evidence that off-street bookings are a problem.

Finally, the Sheriff, who is in charge of operation of the jails, cannot legally agree that there will be no cite and releases performed at the facility. However, to the extent that the jail overcrowding is eliminated or substantially reduced, eventually cite and releases will no longer be necessary.

The mitigation measure providing funding for six additional officers in the City of Lake Forest not only exceeds the number that was presented by the City Manager's office, but is invalid as a CEQA measure. It addresses no environmental impact.

Prisoners move in corridors between the facilities, and move in a secured vehicle when they leave the facility. Therefore, this mitigation measure has already been met by the design of the facility.

The mitigation measure concerning provision of six special officers during the visiting days is not relevant to this project. In the Theo Lacy project there was a specialized circumstance which consisted of a concession on this point. It is unnecessary in this case since the visitor parking garage is immediately adjacent to the jail facility.

The County already has a mitigation measure to address coordination with the FAA. The requirement that an EIR be prepared and circulated if the FAA requires modification overlooks CEQA §21166. It is CEQA §21166 which will be followed.

The wording of the mitigation for the opening of the Southeast Sheriff's Station requires that the station be open before the issuance of the construction permit for the first phase of the construction of the jail. This is inappropriate. The County has agreed to open the Sheriff's Station at the same time the jail is open.

Once again the commentor refers to the County's Settlement Agreement with the City of Orange over Theo Lacy. This is irrelevant to the consideration of the project at the Musick site. None of the stipulations in the Settlement Agreement which are of interest to the City of Lake Forest were a part of the Theo Lacy EIR. These settlement points were a part of a normal global settlement and were not introduced for CEQA issues. In other words, they were not mitigations.

Again, this mitigation measure fails because it is inaccurate. The 7,584 inmate population of this jail does not refer to rated beds — it refers to the absolute maximum number of inmates who can be accommodated in the jail except for emergency circumstances of 60 days or less, in which case 384 additional inmates can be accommodated.

As to the mitigation measure that the Sheriff agree that this is the absolute final expansion of the Musick Jail, the Sheriff cannot agree to this because the Sheriff is not in charge of the expansion of the jails. To the extent that this comment is directed at the County Board of Supervisors, the County Board of Supervisors could agree to this mitigation measure, but future Boards of Supervisors are not bound by this mitigation measure. This is not a mitigation measure in any event, since it seeks to limit the size of the jail without any correlating assertion of a reduction in impact.

With respect to the mitigation measure that requires all inmates to be housed in cell buildings, this is not a mitigation measure and addresses no environmental impact. The actual types of housing units inside the jail may be cells or small dormitories, or may be a combination of both types of facilities.

The mitigation measure concerning the share of maximum security prisoners also does not relate to any type of environmental impact. However, to the extent that the commentor suggests this mitigation measure, it is noted for the record that the total number of maximum

security inmates permitted would be 2,275 under this mitigation measure. This information is provided, but its provision does not imply that the mitigation measure is accepted.

COMMENT 176: The project impacts as described in the EIR are completely accurate.

COMMENT 177: No significant unmitigated cumulative impacts result from this project.

COMMENT 178: The entire comment is flawed because the commentor has not understood three important things about the project. First, cumulative impacts are only discussed in CEQA when significant. DEIR 564 concludes that the impacts are not significant in this case, individually or cumulatively, and does so on the basis of the Reuse Plan EIR and its Statement of Cumulative Effect. It is unnecessary to consider the development of Irvine Planning Area 30 taken in combination with this project, since Irvine Planning Area 30 is outside of the planning jurisdiction of the City of Irvine. As corrected previously with respect to the commentor's assumptions, the traffic analysis is based on the absolute maximum of 7,584 inmates and their visitors and employees, and is not only rated beds. The traffic study includes consideration of trips associated with release.

The traffic analysis is based on reasonable assumptions for the following reasons:

Regarding the El Toro Reuse Plan, see the response to Comment 1 in the OCTA letter dated September 26, 1996.

Planning Area 30 is within the boundaries of MCAS El Toro and is included in the Reuse Plan and is addressed in Draft EIR 563. The City of Irvine has proposed GPA 21633-GA and a Zone Change which would allow the opportunities for a sports stadium, an arena, a hotel/convention center and other cultural uses. The City of Irvine is currently preparing a Draft EIR for the Planning Area 30, although by statute the County LRA is the lead agency for the Reuse Plan. As stated in Section 7.2.2.2 of DEIR 563:

"It is important to clarify that although a portion of the MCAS site is within the City of Irvine, the federal, state or County government will probably be the ultimate property owner, in which case the property would not be subject to Irvine's planning and zoning laws and regulations. Additionally, if the site is ultimately within the City of Irvine's planning jurisdiction, and if the reuse of the base is determined to be an airport, the use of the 440 acre property must be compatible with an airport use. For this and

other reasons, the County is studying the proposed uses for this part of the MCAS El Toro site, but will also consider, to the extent feasible assessment of the uses proposed by the City for this area."

Regarding "rated" versus "crowded" beds for traffic analysis, Section 4.1.2.b of the Draft EIR defines and discusses these terms. This Section states that the expansion would provide an absolute maximum of 7,584 regular beds at the Musick Jail, and is not limited to "rated" beds. In short-term emergency conditions (i.e., 60 days or less, an additional 384 inmates could be held at the facility. This Section concludes:

"Emergency" situations arise very rarely (only one - the drywallers' strike, which involved 150+ mass arrests - has occurred in the last several years), and are the result of some major and sudden, unanticipated, unusual event (e.g., riot, strike, civil disobedience)."

The traffic analysis is based on 7,584 inmate beds, not "rated" capacity.

Regarding released inmate trips, only sentenced inmates are eligible for release and only small percentage of these inmates are released on any day. Over 90% of these releases occur during off-peak hours. Therefore, average peak hour released inmate trips represent less than 10% of the visitor peak hour trips. Since inmates will not have vehicles at the jail, they are typically transported by visitors or public transit. The project traffic analysis overstates daily trips by persons visiting because visiting is permitted on only three days a week, and on only one peak day (typically Fridays) during the week. For the remainder of the peak days of the week, no visitor trips will occur other than to pick-up released inmates. Therefore, the traffic analysis overstates the impacts of non-employee trips for the facility.

Regarding visitor trips, the trip rate is based on surveys of the existing jail facilities visitor activity by the Orange County Sheriff Department as stated in Section 5.10.2.c of the Draft EIR at page 146. The visitor trip generation is shown in Tables 22 and 23 of the Draft EIR at pages 147 and 148 respectively.

Regarding the impacts of traffic mitigation measures, particularly the taking of additional right-of-way, the proposed mitigation measures (Mitigation Measures 45 and 46, page 171 of the DEIR) do not require the acquisition of additional right-of-way to accommodate the proposed intersection improvements required by the project. The improvements identified can generally be accommodated by restriping existing highway sections at the affected intersections. In addition, Mitigation Measure 47

requires that the County Director of Public Works shall work with appropriate City agencies to ensure the operational feasibility of the recommended mitigation measures prior to commencement of any highway improvements.

Section 5.10.3 addresses the impacts of the project on streets, highways and freeways (e.g., Table 24 and Exhibit 32, Table 26 and Exhibit 34 and Section 5.10.3.c), intersections (Table 25 and Table 27), signal warrants (Section 5.10.3.d), the Congestion Management Program (CMP) and Measure M (Section 5.10.3.e), public transit (page 168 and 169), project construction (Section 3.10.3.f and Section 5.13), on-site vehicle impacts (Section 3.10.3.g). Based on these analyses, no unmitigated traffic or circulation impacts were identified and no significant traffic safety issues were identified.

Regarding variations on the extension of Alton Parkway east of Irvine Blvd., the proposed project would not have a measurable impact on traffic on this link (Exhibit 29, Table 24 and Table 26) in the interim year (Exhibits 31 and 32) or the long-term (Exhibits 33 and 34). Therefore, an analysis beyond the information presented in Tables 24 and 26 is not required. The project's impacts at the Alton Parkway project entrances are discussed in Section 3.10.3.d. The variations for extension of Alton Parkway are discussed in the relevant sections of the Draft EIR (e.g., Section 5.1.2, page 57).

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 179: Regarding growth factors in the traffic analysis, the traffic analysis methodology is summarized in Section 5.10.1.b of the Draft EIR and elaborated at page I-4 of Appendix I. The traffic forecasts are based on the Orange County Transportation Analysis Model (OCTAM), the South Orange County Sub-Area Model (SCSAM), and the El Toro Sub-Area Model (ETSAM). Each highway link and intersection forecast is based on the factors interpolated from these sources. There is no one overall growth factor applied.

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 180: This is an editorial remark that is irrelevant to a finding of adequacy for the EIR.

COMMENT 181: Please refer to the response to Comment 1 of the letter from Orange County Transportation Authority.

COMMENT 182: So noted. The definition of "ADT" does not raise an environmental issue.

COMMENT 183: The Draft EIR includes Tables 25 and 27 summarizing the interim and long-range levels of service at study intersections.

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 184: The assumptions underlying the project trip generation are summarized in Table 23, Exhibit 8a and Sections 4.1.3 through 4.1.6 and related discussion of the project elements. Page III-3 of Appendix I states that there would be 90 truck trips per day. Regarding vehicle occupancy rates, see the response to City of Irvine October 3, 1996 Comment 24. The visitor trip rates are based on Orange County Sheriff surveys of existing facilities as noted in Section 5.10.2.c and Table 22. Also, Section 4.1.6 summarizes the operational characteristics of the project. Regarding inmate release trips, see response to Comment 178 above.

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 185: See Response 178 above regarding the El Toro Reuse Plan. Construction vehicle trip impacts are discussed in Section 5.10.3.f at page 168 and general impacts discussed in Section 5.13. In addition, construction impacts are discussed in relevant sections of the Draft EIR (e.g., 5.1.2. and 5.2.2.a). Public transit impacts are discussed at Section 5.10.3.e, Section 5.11.1.h and Mitigation Measure 49. Regarding inmate release trips, see the response to Comment 178. There is no on-road bike trail shown for Alton Parkway at the project site by the County Master Plan of Bikeways. For existing project conditions, see Exhibit 4 and Exhibit 5. No on-street parking is presently occurring for the existing operation. In general, on-street parking is not permitted on Alton Parkway or Bake Parkway near the project site.

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 186: This response relates to format of the Draft EIR discussion and does not raise any environmental issues. The relevant performance standards are stated in each subsection of Section 5.10 for ease of reference. The performance standards for highways, intersections and signal warrants are summarized in Sections 5.10.1.c, 5.10.3.d and 5.10.3.e. Construction related traffic impacts are described in Section 5.10.3.f and Section 5.13. Public transit standards are summarized in Section 5.10.3.e and 5.11.1.h. CMP and Measure M performance standards are also summarized in

Section 5.10.3.e. The performance standards for internal project impacts are summarized in Section 5.10.3.g. Based on the Transportation, Circulation and Parking analysis in the Draft EIR, no significant unmitigated impacts are expected and no measurable safety issues will result.

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 187: All CMPHS components within the Study Area are addressed in Section 5.10.3.e of the Draft EIR at pages 165 through 167. Tables 25 and 27 present the level of service for all highway intersections in the Study Area with and without the project. No on-road bike trail is shown on the County Master Plan of Bikeways, therefore no conflicts are expected with a bike route on Alton Parkway. The conveyance parcel is not a part of the project, so its impacts are not addressed; although no impacts would expected to occur from inmates crossing Alton Parkway because a traffic signal is proposed at the Alton Parkway/project entrance which would protect inmate trips whether by bus or on-foot. For short-term construction impacts see the Response to Comments 178, 185 and 186 above; these impacts are not significant. For public transit impacts, see Section 5.11.1.h and the response to Comments 178, 185 and 186 above; these impacts are not significant. For freeway impacts, see the response to Comment 178 above; these impacts are not significant.

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 188: The project would have no measurable impacts on the extension of Alton Parkway east of Irvine Blvd. as noted in the response to Comment 178 above. The parking analysis in Section 5.10.3.g is based on the hour by hour data included in Exhibit 8a and 8b as stated on page 170. Parking requirements for visitor and other sources are based on trip generation estimates (e.g., Table 22, page 147 and Table 23, page 150 and related discussion). Regarding emergency access by fire fighting equipment, Section 5.11.1.b summarizes the effect of the project on fire and emergency services, and no issues were raised by the Orange County Fire Authority. Higher security inmates along with other inmates will be transported via the Alton Parkway entrance as stated in the Draft EIR.

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 189: Regarding the impacts of the El Toro Reuse Plan, see the response to Comment 1 in the OCTA letter dated September 26, 1996.

COMMENT 190: The EIR does not understate the parking demand of the facility. Unlike a normal commercial project or an office project, inmates are not free to come and go as they please. Further, the County Sheriff's Department maintains excellent records on the number of visitors expected at a facility. As a result, taken in combination with the employees, the Sheriff's Department was able to estimate closely traffic figures.

Regarding the parking capacity under "crowded" verses "rated" scenarios, see the response to Comment 178 above. The traffic and parking analysis are based on regular conditions which will occur at the proposed project, not "rated" beds. The parking forecast in Section 5.10.3.g, is based on a shift by shift (see Exhibit 8a and 8b) employee demand and forecasts of visitors based on Orange County Sheriff Department's surveys of existing facilities and remain valid. Visitor parking included in the project is adequate for peak hour demand, so parking on nearby streets is unnecessary. Parking on residential streets is especially remote considering visitors would have to walk to Irvine Blvd., thence via Irvine Blvd. to Alton Parkway, and thence to the Alton Parkway entrance; therefore, no measurable impact is expected on parking on residential streets.

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

With respect to the remarks of the Sheriff's Department requesting the 250 acres of land on the base, it must be borne in mind that the 7,000-inmate jail proposed there was a rated capacity designed to be occupied at 130% of rated. This is common nomenclature for sheriffs to use, and since the Notice of Intent was not for the purpose of an Environmental Impact Report and closely approximated Gypsum Canyon Jail project, this term was used. This would result in 9,100 inmates and 3,500 vehicles, roughly the same ratio of parking per inmate (although inmates do not need parking). Additionally, pages 169 and 170 of the EIR clearly define how these figures were arrived at and why they are adequate. Other than the unsubstantiated allegation that the parking is inadequate, the commentor offers no evidence as to why it believes the expertise of the traffic engineer and the Sheriff's Department is incorrect with respect to this comment. Therefore, no further response is necessary.

COMMENT 191: Please see response to Comment 1 of OCTA.

COMMENT 192: The County disagrees that the analysis is flawed whatsoever. See the response to Comment 1 in the OCTA letter dated September 26, 1996.

COMMENT 193: Regarding the addition of subheadings for Mitigation Measures, this comment relates to format and does not raise an environmental issue. The comment proposes several mitigation measures or revisions of the proposed mitigation measures. These proposals are noted.

Regarding the proposed mitigation measure requiring the County to commit to full funding of all traffic mitigation measures, this required already by Mitigation Measure 48.

The comment proposes an alternative approach to the right-turn-only lane proposed for Bake Parkway/Irvine Blvd. intersection and recommends this approach be investigated by the Draft EIR. This comment does not raise a significant issue - there are a range of detailed designs which would fulfill the requirement for mitigation at this intersection.

Mitigation Measure 47 adequately addresses the comment by requiring that prior to commencement of any highway improvements required for the project, the County Director of Public Works shall work with affected City agencies to ensure operational feasibility. As noted in the response to Comment 178 above, no additional right-of-way is necessarily required to implement the recommended intersection Mitigation Measures, therefore there are no impacts associated with acquisition of right-of-way.

The comment proposes the rewording of Mitigation Measure 45 and 46, and the comment is noted. However, the Mitigation Measures are adequately worded for their purpose as proposed. The comment proposes a mitigation measure requiring extension of Alton Parkway prior to access to the project, however, since the project does not contribute a measurable impact to Alton Parkway extension (see response to Comment 178 above) such mitigation is not required for the project.

The comment proposes a mitigation measure limiting access to each use to the access point which is proposed in the project description, however, these mitigation measures do not relate to a significant impact and are already included in the project design. The comment proposes a mitigation measure limiting visitors to Monday to Friday 9:00 am to 3:00 pm with no visitors on weekends, however, this mitigation measure does not relate to a significant environmental impact so no further mitigation is required. The comment proposes to modify the wording of Mitigation Measure 49 to require improvement prior to the first phase of the project, however, no revision is necessary because the Mitigation Measure is tied to the impact of the opening of the Alton Parkway

entrance. The comment proposes to modify Mitigation Measure 50 to state that parking will be provided prior to issuance of occupancy permits, however, this modification is not necessary because the Mitigation Measure is tied to the impact of occupancy of each project phase.

The comment proposes a mitigation measure addressing construction impacts, however, Section 5.13.2 concludes there will be no significant construction impacts so no mitigation measure is required. The comment proposes mitigation measures for public transit, however, Section 5.10.3 and Section 5.11.2.h conclude that no significant impacts will occur due to the project, therefore, no mitigation measures are required. The comment states that Section 5.10 of the Draft EIR must be rewritten per this comment, however, the comment raises no new or additional unmitigated impacts, therefore, no revision is required. Finally, the comment restates that the Draft EIR must analyze the impacts of the El Toro Reuse Plan, which was previously addressed in the response to Comment 1 of the OCTA letter dated September 26, 1996.

In conclusion, the comment raises no new or additional impacts which would require revision of the Draft EIR.

COMMENT 194: This comment is completely incorrect due to responses given elsewhere on cumulative impact and project impact. If the jail project were the same size and intensity of impact as the Reuse Plan, the commentor might have a point. However, this is an "ant vs. elephant" issue and the jail project cannot affect the impact scenario either individually or cumulatively.

COMMENT 195: This comment has been addressed elsewhere in terms of a rejection of this requirement of key finding.

COMMENT 196: The City of Lake Forest has indicated the need for another 24-hour shift in the project vicinity, even though the City of Irvine indicated no additional services were needed. Since this is not an impact to the environment, a mitigation measure is appropriate.

COMMENT 197: The EIR has discussed the impacts to fire services. Coordination with the State Fire Marshal and the Orange County Fire Authority is always undertaken during the design process. There is no suggestion in the Fire Authority's letter that it will be unable to serve the project, just that it will need to coordinate with the pressure requirements, emergency access and service delivery to the Orange County Fire Authority station. It is not surprising that the Fire Authority can only make these generalized remarks at this time. Since the phasing of the total facility was not taken

into consideration and only 7,584 inmates in three buildings was considered by the Fire Authority, coordination work over the years is necessary. However, there is no indication there will be an inability to serve.

COMMENT 198: The inclusion of non-potable water in the EIR is not objected to. Please see the response to the letter from IRWD.

COMMENT 199: These comments have been previously responded to.

COMMENT 200: There are no regional parks in the vicinity of this facility that would be subject to the types of impacts in Gypsum Canyon.

COMMENT 201: This comment is inaccurate as indicated by previous responses.

COMMENT 202: The editorial aspects of this comment are rejected. The mitigation measures asking for financial compensation (such as the provision of six additional officers for the City of Lake Forest) are rejected due to the lack of environmental impact to mitigate.

The mitigation measure for emergency access is premature. The County shall work as indicated in the mitigation measure with all public agencies, including the Orange County Fire Authority and the State Fire Marshal, in the design of the jail. The comments concerning water provision are a part of the agreement that will be implemented with IRWD.

The County cannot occupy the facility to the extent greater than can be served by sewer. Therefore, this mitigation measure is unnecessary.

This mitigation measure has absolutely no basis in environmental impact, and it consists of a funding measure.

COMMENT 203: Impacts to the Lake Forest law enforcement are not significant as documented in the EIR.

COMMENT 204: This comment has been responded to elsewhere.

COMMENT 205: The commentor has an improper understanding of the pertinent sections of the California Environmental Quality Act, the CEQA Guidelines and the case cited. Therefore the presence of economic and social impacts — standing alone — is not a justification for a finding of environmental impact.

COMMENT 206: There are no flaws in the study. The introduction of appraisers, Sedwick White and Steven White, is simply disagreement among experts. This does not constitute inadequacy of the EIR as indicated in the CEQA Guidelines. Please see the social and economic impacts discussion of in the Foreword to these Responses to Comments for further explanation to these general issues which have been raised by several commentors. Also, in relation to the criticisms of reliance on the Theo Lacy Jail Expansion EIR, if the County had only relied on this EIR rather than prepared a site-specific study, this comment might be well taken. But this is not the case, and the Theo Lacy EIR studies only serve as corroboration of the findings. The anecdotal information cited in the comment is completely irrelevant to a CEQA analysis. The anecdotal information concerning loss of property value is certainly not a reviewable aspect under CEQA. Neither is loss of income to real estate agents. What is not mentioned in the allegations regarding loss of income to real estate agents is the fact that if there is, in fact, a flurry of sales activity for these homes, it is real estate agents who will benefit by collecting commissions.

COMMENT 207: This comment has been responded to elsewhere with respect to thresholds.

COMMENT 208: The project will not cause a physical change in the environment, and no evidence whatsoever has been produced by the commentor to support this view.

COMMENT 209: Since there is no effect of the jail on economic impacts at all, combination with the El Toro Reuse Plan will produce no different result.

COMMENT 210: The mitigation measures proposed are completely inappropriate under CEQA. They are financially related, bestowing economic benefit on individual residents and the City without any relationship to whether there is an impact on the environment. It has long been established in CEQA that a mere diminution in value is not an environmental consideration.

COMMENT 211: These measures have absolutely nothing to do with CEQA or impacts.

COMMENT 212: The County of Orange disagrees with these remarks for the reasons stated above.

COMMENT 213: This is an editorial comment that raises no environmental issues.

- COMMENT 214: The hazardous materials assessment is completely valid and adequate. The Phase 1 assessment was not even necessary, but was conducted to ascertain whether there were any hazardous issues. The types of things that were found are very minor, and mitigation has been provided for them. There is no showing in this comment or in the comments which follow on the part of the commentor that any of the information is incorrect. There are simply format questions and editorializing regarding the hazardous materials assessment. Many of the comments call upon the EIR to disprove a negative, which is quite a different standard that CEQA requires.
- COMMENT 215: As indicated elsewhere in this EIR, there is the possibility for groundwater contamination generated beneath the site. This is hardly an issue for CEQA for a project that will not interfere with the groundwater table during construction, as is amply demonstrated in the EIR.
- COMMENT 216: Significance thresholds have been addressed previously in these comments.
- COMMENT 217: The commentor makes various editorial comment disputing the conclusions of the EIR and the manner in which major concerns were identified, without offering any support for the contention that these automatically convert into significant impacts. No further response can be provided.
- COMMENT 218: Underground storage tanks have been replaced within the County for various gas stations numerous times over the years. There is no reason to believe there is any significant effect as a result of this restoration on the site. Neither are the transformers an issue. The survey recommended by the County was not undertaken regarding asbestos because conditions establishing the protocol for asbestos surveys might change by the time the buildings are removed. Recall that these buildings are not to be removed until the northeast complex is constructed, which might be many years from now.
- COMMENT 219: The statement in the EIR is correct.
- COMMENT 220: There are no cumulative impacts.
- COMMENT 221: This is a normal test. This mitigation measure considers a normal test that is appropriate at the time prior to construction and grading. Mitigation measures stated in the EIR are, therefore, appropriate.
- COMMENT 222: The commentor is incorrect. The commentor is actually requiring that in effect the actual remediation must be done, and then an impact

assessment written about it. This type of comment is startling, because the "further studies" on the two minor environmental concerns and two potential environmental conditions (terms of art for hazardous materials assessment reports not having the same meaning as in CEQA) would be completely adequately dealt with by reference to standard conditions imposed by federal agencies and state agencies. The question that remains then is what is achieved by doing these studies now. There is no question that the high degree of regulation in this area leaves no reasonable question as to whether the issue will be dealt with.

This is not similar to the case where a governmental agency will leave to future mitigation an issue whose dimension is unknown. For example, if the County had simply elected not to provide a Phase 1 assessment study, and called for a Phase 1 assessment study such as presented in this EIR as a mitigation measure, this might not be considered adequate. However, once the Phase 1 assessment study has identified the impact, it is not only not difficult to know that the impact can be dealt with (because federal and state regulations are in place concerning these matters), it is impossible that in carrying out the federal and state regulations that there will be any impact *because that is the exact point of the federal and state regulations*. For these reasons, the County disagrees with the commentor's position and believes the EIR remains adequate.

COMMENT 223: This is yet another recital by the commentor of a refrain concerning cumulative impact. No suggestion that there is a significant impact in this area has been presented, and no evidence is offered.

COMMENT 224: Section 6 need not identify the loss of prime agricultural land as significant because it is not significant as far as the EIR is concerned. This comment as to this issue is interpreted, therefore, as the commentor's disagreement with the conclusions in the EIR. The commentor has presented no evidence whatsoever to support a finding of impact. In fact, although the County disagrees with the commentor's position that the 39-acre agricultural conveyance is a part of this project, the 39-acre conveyance actually cuts against the commentor's position with respect to this issue.

Neither are socioeconomic impacts of the project significant from a CEQA standpoint, as described elsewhere. Contrary to the commentor's position, traffic and air quality impacts have not been "ignored" for any reason. Lengthy and expensive studies have been provided concerning these impacts. The commentor simply has *disagreed* with the conclusions of the EIR, without providing any substantial evidence to the contrary. As can be seen in the responses to these comments, the commentor's position is not well taken in this area.

The remaining portions of this comment deal with the expression of the commentor's view that the commentor's position is correct and the EIR's is not. As explained elsewhere in this response, the County does not agree with the commentor's position with respect to these issues, and the commentor has not provided any evidence to support the claims.

COMMENT 225: The alternatives analysis in DEIR 564 is one of the most comprehensive ever presented in any EIR prepared for the County, any other jurisdiction, and particularly for jails. DEIR 564 specifically identifies not only alternative sites within and outside of the County, but also identifies past history of sites, management solutions to the jail, and a variety of ways of accommodating the needed beds. Twenty-eight alternatives (not counting the exhaustive search for over 40 sites over a period of six years referenced in Exhibit 36) were considered.

A review of the referenced Exhibit HH at pages 15 and 16 amply demonstrates that the cited portion of the Memorandum of Tentative Decision has absolutely nothing to do with the commentor's argument. The County looked at all sizes of jail sites, virtually all locations that are available, and even operational alternatives. The EIR even considers alternatives that are not legally feasible, such as the Sheriff ceasing all drug-related arrests and establishing a new corrections system focusing on rehabilitation rather than incarceration. The commentor's assertions simply amount to a castigation of this section of the EIR without any evidence showing that the County has not complied with CEQA. The allegations of bias, results-driven alternatives, fundamentally flawed assumptions and the like are simply without basis. The justifications for rejecting *some* of the alternatives — that they are too expensive or cannot be available as quickly as the Musick Jail site — is a statement of fact. It is well recognized in CEQA that this project goal and objective can be stated in the EIR and that alternatives can be measured against it. However, the County also considered alternatives that would not meet those goals and objectives consistent with CEQA.

As stated elsewhere in this response, an analysis of the cost of the Musick Jail is completely unnecessary in the CEQA process. The fact that the Sheriff's Department might have stated that cost studies would be performed as a part of the environmental analysis is irrelevant. The Sheriff's Department is not in charge of the environmental analysis. To whatever extent the Sheriff's Department has made this statement, it is gratuitous and was not taken into any consideration in the EIR.

Furthermore, the commentor never states how a cost for a jail would be useful in an environmental analysis. It should not take any analysis to know that a site that is *owned* by the County is less costly than a site that

must be *acquired*, particularly in light of the constraints of the County with respect to the bankruptcy, as described in the EIR and elsewhere in these responses to comments. The commentor, in looking at costs for the jail, relies on documents that have nothing to do with this particular site and, as amply demonstrated in an earlier response in this letter, deal with a jail that is much larger than this jail.

The commentor's accusations regarding the "accelerated track" is noted. The commentor seems to state that the County must wait to see if it can get funding in order to undertake any environmental, without regard to the fact that public funds are dependent, more often than not, that the County is ready to proceed. A certified EIR is one of the fundamentals of this type of determination. Again, the commentor's remarks in this regard simply go to the issue of whether it will be possible to build the jail. CEQA does not concern itself with this aspect of governmental conduct. CEQA concerns itself with whether the Board of Supervisors has the *intent* to build a jail. That is all that is necessary, and therefore the remaining remarks of the commentor with respect to this issue are irrelevant.

It is difficult indeed to imagine why, with the highly overcrowded condition in the jail system and the fact that the Sheriff's Department must release a high proportion of inmates prior to the end of their sentence, is not an aspect that requires attention in the EIR. It is notable that the City of Lake Forest did not oppose the characterization of the need to establish a near term jail under and bring beds on in an expedited manner when the expansion was discussed in the City of Orange at Theo Lacy. In that case, the City of Lake Forest interposed no objection whatsoever to the short term timing considerations that the County used as a basis for not proceeding with a jail elsewhere than Theo Lacy.

Similarly, the timing for the extension of Alton Parkway is irrelevant to the construction and operation of the jail. As the traffic study amply demonstrates, the Alton Parkway extension beyond the entrance to the jail isn't even necessary to serve the traffic for the jail.

Simply stated, these several pages of comments concerning the EIR are simply an expression of opposition to the project and the manner in which alternatives to the project were considered, without any legitimate complaints regarding the application of CEQA itself or the breadth of the "Alternatives" section.

COMMENT 226: Twenty-eight alternatives are presented in this section. There are 13 principal alternatives and 11 alternatives that were noted in the EIR as

having been considered and rejected as infeasible during the Draft EIR preparation process. The commentor points to no reference in CEQA preventing this type of approach, and case law has endorsed it.

The consideration of 46 sites is likewise correct. Exhibit 36 was included to specifically identify those sites. The reader will note that the James A. Musick facility site is shown as number 34. The reader will also note the paucity of sites outside south and northeast Orange County. Again, this is due to the small geographic size of the County and the absence of available land precipitating fewer effects than those of the Musick site. Certainly, it would be a complete subversion of CEQA to suggest that another site with true physical environmental benefits would need to be analyzed in an EIR for the Musick jail site as an alternative jail site, when the Musick jail site causes no impacts.

As regards the second paragraph on page 191, the paragraph is appropriate. This paragraph focuses on the important principles of CEQA and the case law interpreting it, not a Memorandum of Tentative Decision from a Superior Court. The long history of the County jail siting process has amply demonstrated that there is opposition to the jail, no matter where it is located. As the record shows, this does not appear limited to any particular socioeconomic or cultural level.

Finally, the commentor also seems to rely to a great extent on the Memorandum of Tentative Decision with respect to Final EIR 464 in a manner that does not apply to this case. With respect to socioeconomic impacts, the complaint of the Memorandum of Tentative Decision on FEIR 464 was that the County had failed to conduct any study at all, and there was expert testimony to the contrary. The court specifically notes in Exhibit HH provided by the commentor at page 10 that had the County presented some evidence, this would have been acceptable. For reference, and because the commentor raised it, the court states "By this ruling, the court is not deciding that an EIR's environmental conclusion of no chain of causation, *if based on relevant fact*, would be incorrect. Courts are not permitted to pass upon the correctness of an agency's environmental conclusion" (citation). Instead, the court is deciding that EIR 464 fails to provide a "reasoned analysis, i.e., any relevant facts for its conclusion as required by law." Therefore, the commentor's reliance on this Memorandum of Tentative Decision is misplaced.

COMMENT 227: Page 192 is an exhibit showing alternative site locations. At page 193, the County discusses and summarizes the County's consideration of this study. The information is provided as a background for the reader, and actually precedes the consideration of project alternatives. It is entirely appropriate, particularly because intervening events such as the

bankruptcy have reduced the feasibility of certain sites. As indicated elsewhere in these comments, it is not only the bankruptcy but state law that eliminates certain sites from consideration, such as Caspers Park and Caspers Park East.

As amply demonstrated in the documents in this study, these sites have greater environmental impacts than the Musick Jail site and would not be qualified as alternatives in any event.

COMMENT 228: The reference paragraph in page 193 is not editorializing. It is a statement of fact that the usual form of opposition to a project is a challenge on environmental grounds, and the threats contained in the letter from the City of Lake Forest are ample evidence of that possibility. The balance of the comment regarding the law passed by the California legislature forbidding use of state funds for a jail close to Disneyland, is irrelevant. The fact of the matter is that the Katella-Douglass jail site no longer belongs to the County, and has been acquired by the City of Anaheim for a parking lot for "The Pond."

COMMENT 229: Again, the commentor is critical of the history of the Gypsum Canyon jail site provided in the Draft EIR gratuitously for the benefit of the reader. The Gypsum Canyon alternative is specifically discussed in the EIR at page 215. Furthermore, the Draft EIR included a letter from the City of Anaheim providing further evidence of the infeasibility of the Gypsum Canyon alternative. The Board of Supervisors did not "temporarily abandon" the Gypsum Canyon jail site. This is simply a fictional statement on the part of the commentor. In support of the statement, the commentor offers Exhibit Y which is the summary minutes of the Clerk of the Board of Supervisors of the meeting of October 22, 1991. Interestingly, the commentor does not point out that the portion of the resolution that was rescinded was exactly the selection of the Gypsum Canyon jail site. Additionally, the commentor does not point out that the maker of the motion, Supervisor Vasquez, indicated that the reasons for the rescission were the veto of AB1819 by Governor Wilson, a veto of funding by the voters and *controversy*. The Supervisor went on to indicate that "Gypsum Canyon was no longer a viable site, and future efforts could be redirected." It is not clear from a reading of the comment what more the Board of Supervisors would have had to say to abandon the Gypsum Canyon jail site. Certainly, the County did not take such a position of "temporary abandonment" when the City of Anaheim circulated its Environmental Impact Report for the Mountain Home project in and around Gypsum Canyon, as well as the annexation to the City of Anaheim of the entire area, including the site.

Contrary to the statement in Comment 229, the County actually looks at sites it does not own. It simply states that it is infeasible at this time to acquire them. This is an entirely valid basis for rejection of an alternative.

COMMENT 230: The County disagrees with this comment. In light of the fact that the state prison system seeks these exemptions and the County Board of Supervisors has looked at the exemption (albeit rejected at this time), the alternative is valid in that it facilitates the expansion of the jail system and the response to the emergency need for jail beds, and all on a site which has little redeeming environmental value.

COMMENT 231: Contrary to the commentor's assertions, the management system's approach to relieving jail overcrowding has been partially implemented by the County, and nothing in the EIR suggests that this alternative does not have the capacity to reduce the need for beds in the jail system. However, as demonstrated by the Environmental Impact Report (which relied on extensive studies of the County in making these statements), the alternative only responds to approximately 11% of the demand. This would only consist of a reduction of approximately 1,154 beds in the Musick jail proposal. Therefore, although it is true that a smaller jail would be possible, it is not a much smaller jail. The EIR indicates this. The cost of management system alternatives makes no difference in the rejection of this alternative, because the alternative is not rejected on the basis of cost — it is rejected on the basis that it makes too small a dent in the need for jail beds. However, simultaneously, the Board has proceeded on this tract and will continue to take as many steps as it can with the financial constraints to implement management systems to relieve jail overcrowding. No responsible public official wants to build a building when a management system will do. However, as explained in the EIR, the management system approach only deals with non-violent misdemeanants, and this is a small portion of the population which is eligible for incarceration.

COMMENT 232: The identification of an environmentally superior alternative under CEQA deals with an alternative that has fewer impacts than the proposed alternative. The EIR indicates that the proposed project does not have significant impacts, in the County's opinion. Therefore, the comprehensive examination of project alternatives provided by the County acts to over-comply with CEQA by providing project alternatives where none are really necessary. However, the County deemed it appropriate to present these alternatives, more as an alternative to mitigation-reducing impacts than a comprehensive examination of the options ostensibly available.

It is not clear from the comment why a "study" is an environmentally superior alternative. CEQA specifically indicates that alternatives to the project would include those which would feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project. Furthermore, alternatives which would impede to some degree the attainment of basic project objectives or would be more costly, must also be considered. A study does not achieve *any* of the basic project objectives. Therefore, it is hard to understand why it is environmentally superior. The response to the commentor's position concerning the need for a long-term jail report is located elsewhere in the response to the City of Lake Forest. The reader is referred to that section. However, it should be noted that regardless of what position was taken internally concerning the Long-Term Jail Solutions Report, or externally by the Board, there is no section of CEQA that makes such a report a predicate considering a jail project. In addition, there is no forfeiture of the ability to prepare a long-term jail report if this project is adopted.

The remainder of the comment critiques what are characterized as "unsubstantiated assertions," but does not offer any contradictory evidence. In view of the fact that the location and funding of jail projects is not a matter of first impression for the Board of Supervisors, the County's own pool of knowledge in this area is ample support for the statements made.

Neither is reliance on EIR 464 inappropriate in the context used. EIR 464 is not referenced for any purpose in the EIR section except to help identify the size of a potential facility involved in the expansion of the Main Jail in Santa Ana and in commentary on the 1994/95 Grand Jury final report alternative.

Finally, the County simply disagrees with the commentor's position regarding impacts on the Musick Jail site.

COMMENT 233: Please refer to the response to the letter from Supervisor Marian Bergeson for an analysis of this issue. Privatization of the jail in the manner proposed is not considered legally possible by the Office of the County Counsel. Contrary to the statement in the comment, the EIR alternative is not rejected due to the information included about problems at privately operated facilities, but the County believes it is important to report this information to the public. The statement "far more dramatic and dangerous problems have arisen at publicly operated facilities" is unsupported by any evidence.

COMMENT 234: The analysis of Alternative 7.6 is hardly a cursory dismissal. The environmental impacts generated by a smaller facility are irrelevant if the impacts of the principal project are not significant. In fact, the EIR discusses a 63% reduction in inmates, staff and visitors. Taking traffic alone, this means that ADT generated would be approximately 1,574 trips. This is a simple arithmetic calculation. There is nothing in CEQA that requires that this type of detail be laid out for the reader. A good faith reasoned analysis is all that is required. As indicated in the Foreword to the "Alternatives" section, the County has provided the means by which the reader can achieve this. Were this to be a significant or borderline significant impact project based on the findings in the EIR, perhaps more extensive calculation would be necessary. However, the EIR shows that impacts are not significant in any event and, therefore, the depth of discussion is appropriate.

Please refer to responses elsewhere indicating the County has not attempted to "justify the siting of a maximum security facility at Musick because a quarter of the County's arrests occur in the South County." The commentor fails to note that this data was a specific request of attendees to the July 8 scoping meeting on this project, held in the City of Lake Forest. Attendees specifically wanted to know what proportion of arrests occurred in the South County in relation to the jail. This information was provided. As disclosed elsewhere in these responses, it is the *size* of the jail site, and not the scope of arrests, that truly establishes the size of the facility. The balance of this comment concerning the number of inmates is incorrect based on explanations elsewhere in these responses.

COMMENT 235: The commentor gives no basis for the allegation that the EIR must recommend the selection of this alternative over the proposed project because it would reduce environmental impacts by over 50%. A review of CEQA shows no basis for this statement.

Interestingly, the commentor appears to overlook the fact that the Grand Jury report alternative recommends a medium and maximum security jail at Musick. In view of the commentor's previous assertions that such medium and maximum security jail has significant environmental impacts, it is not understood why the commentor would support this alternative to such a degree.

Contrary to the statement in the comment, the Santa Ana expansion alternative, as clearly discussed in the EIR, simply does not have the room to establish a 3,000-bed jail. The County was unable to determine, because of the security of Grand Jury records, how the Grand Jury arrived at this determination. Therefore, the EIR set forth a calculation

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showing how this determination of 3,000 could not actually fit on the County-owned land.

But the EIR did not stop there. The EIR continued to discuss expansion in Santa Ana beginning at page 210. Even with this expansion, just over 3,250 could be accommodated on a 15-acre territory in Santa Ana combined with the County ownership. Twelve acres of this property is not owned by the County, and the reader is referred to the letter from the City of Santa Ana on the EIR indicating the problems with this alternative.

COMMENT 236: The commentor has apparently overlooked the statement on page 205, "this alternative could be considered the environmentally superior alternative because it could maximize the opportunity to place jail facilities on a former military base which, regardless of the Reuse Plan alternative ultimately selected, will be the focus of considerable development." Therefore, this alternative is identified as the environmentally superior alternative.

The balance of the comments are simply unsubstantiated criticisms.

As regards to the last paragraph, it is true that the County could consider the placement of jail facilities at El Toro regardless of what occurs with the Musick Jail. There is ample evidence that jail beds will be required beyond the year 2006 in any event. As this alternative describes, the attention for jail expansion might be able to shift. As a point of information which followed the issuance of the Draft EIR, the reader is advised that the City Counsel of the City of Irvine has unanimously adopted a resolution indicating their opposition to the location of a jail anywhere in Irvine, including the Reuse Plan area.

COMMENT 237: The comment regarding specific projections for the minimum, medium and maximum security beds in this facility has been explained earlier in the responses to this letter of Comment.

Since the County does not agree there are any socioeconomic impacts due to the presence of maximum security inmates or the classification of inmates at all, there are no environmental impacts to lessen.

Interestingly, although the commentor has previously criticized the County for relying on a ten-year-old EIR, the commentors themselves rely on the 1986 Musick Master Plan EIR for a proposition that is clearly anachronistic. As explained previously, the 1986 Musick EIR was written and conclusions were drawn before the Intake and Release Center or the Theo Lacy Branch Jail maximum security building was

even built. Therefore, there was no ability on the part of the County or the EIR consultant to evaluate on an actual basis the operation of these facilities and the safety of these facilities. The EIR consultant in that case had in mind the types of facilities the County had at that time — such as the Main Jail in Santa Ana or the barracks and dormitory buildings at Theo Lacy. These buildings are not as safe as the more modern buildings proposed in this EIR, and therefore, the statement might have been correct at that time. However, advanced technology and construction techniques have overtaken this comment and it is no longer valid.

COMMENT 238: The commentor's assertion that somehow the IRC being located in a "central urban area that already has high crime" seems to indicate that it is acceptable to add to it. By this the County does not mean that it believes there is any increased risk due to maximum security inmates. However, the proposition that somehow it is alright to release inmates into a mixed residential and non-residential area just because it has crime, has no basis in CEQA.

The statements regarding the Theo Lacy Jail and the fact that the EIR proposed a mitigation measure for transporting maximum security inmates to the IRC in Santa Ana overlooks the fact that the specific finding on public safety was that there was no significant impact as a result of the release of maximum security inmates at the facility. The mitigation measure, then, was a gratuitous gesture on the part of the County. In addition, since the Sheriff had previously established maximum security inmates at the facility subject to the transportation aspect, this measure was simply a continuation of the then-present condition. The commentor's support for this alternative is noted.

COMMENT 239: The analysis in the EIR is correct. The County has searched in vain for a site for a jail system. The commentor provides no basis for the rejection of these reports except for the bald assertion that somehow the passage of time has rendered the reports invalid. The environmental characteristics of the sites rejected by the Board are undisputed and have not changed. The facts that the site contains a wetland, contains a rare endangered species or is a regional park which is restricted by state law from the location of a jail facility are abundant reasons why these alternatives are not acceptable.

Moreover, the County is not required to engage in a search for sites which it has no reasonable means of acquiring. This is well established in case law and in CEQA and its Guidelines. This would result in a useless exercise at this point. The commentor fails to point out any arguments which contradict the County Counsel's position on the use of

collateralized sites or the alienation of collateralized sites. The reader is referred to the Response to the letter from Supervisor Marian Bergeson for further information on this issue.

COMMENT 240: The fact that the County lease allows such transactions is not disputed. Please see Response to Letter of Comment from Supervisor Marian Bergeson for the response to this issue. Simply stated, *legal possibility* does not mean the alternative is *feasible*.

COMMENT 241: Additional reasons for rejecting the expansion at Santa Ana Main Jail is found in the letter from the City of Santa Ana. The County's jail needs before 2006 are 7,572 beds. The commentor does not explain how the accommodation — even if true — of 4,000 inmates at Santa Ana would reach this goal, or what would become of the need for the remainder of the beds.

Furthermore, Santa Ana's contract with the federal government is between the City of Santa Ana and the federal government. The information was obtained from the Chief of Police and the Executive Director of Planning and Building. The County has no ability even to interfere with this contract.

COMMENT 242: The County has not relied on the decision of its own Local Redevelopment Authority staff to avoid designation of a jail at the El Toro MCAS, and the EIR specifically states that the County has not necessarily rejected this alternative at this time. However, the EIR points out that it is premature to decide this alternative because it is actually the Board that decides this alternative. However, even if the Board decides to overrule its staff and allow establishment of the jail at the MCAS El Toro, it is still a fact, as pointed out elsewhere in these Responses to Comments, that the land will not be available until July 1999, whereas the land at the Musick facility is available now. Therefore, there will be a delay, in any event, in bringing on the necessary jail beds. There is nothing in the letter from the LRA indicating that the 250-acre site constituted the basis for their rejection. As a matter of fact, exactly the opposite is true. The LRA appears to have recommended against the conveyance due to the fact that the jail was not income-producing. The alternative of locating a jail at the base — the base being 4,700 acres in size — was analyzed in the EIR. Additionally, please see Response to Letter of Marcel Fernandez for further explanation of the constraints on the sites suggested by Mr. Fernandez.

COMMENT 243: This alternative has been analyzed often. The Reuse Plan for Tustin MCAS is referenced in the letter from the City of Tustin. It is not the opposition necessarily of the City of Tustin that makes this option

infeasible, but rather the fact that the Tustin base closure task force has rejected the request the Sheriff made. There is nothing further that the County can do to *force* a jail at this site.

COMMENT 244: The discussion over most sites outside of Orange County is completely adequate under CEQA. The County has spent a considerable amount of time studying other sites. Furthermore, in the Response to the Letter from Assemblyman Mickey Conroy, it is demonstrated that the types of costs and practical difficulties in getting inmates to court dictate against this site. However, contrary to the commentor's assertion, DEIR 564 specifically opens the possibility of proceeding on multiple tracks. However, this is not to the exclusion of the approval of a jail at Musick.

COMMENT 245: The County has received information, attached to the letter from the Orange County Sheriff, indicating that Riverside County has said they have no beds for Orange County. At the present time, the Sheriff for the County of Los Angeles is considering leasing the extra beds in the Twin Towers building to others, such as the federal government. The cost cited by the commentor refers to an Exhibit F which is an 8½"x14" spreadsheet unattributed to any source. It is not known with certainty that this even comes from the Los Angeles County Sheriff's Department.

However, even if Los Angeles County has beds available, it is not explained by the commentor how the transportation to and from court, the staffing of the facility and the practical difficulties described in the EIR for remote sites are overcome by this alternative.

COMMENT 246: As explained in the basis for rejection of these alternatives, serious constraints exist with respect to each of these alternatives, either in terms of size, legal ability of the County to acquire the site or use it for a jail and other legal constraints. Contrary to the commentor's assertion, opposition of the City of Anaheim is not the sole reason for indicating that the Gypsum Canyon site is no longer feasible. Please see Letter of Comment from City of Anaheim and response on this issue.

The commentor does not explain why cost is not a basis for rejection of an alternative in CEQA. CEQA determines that infeasibility of alternatives can be based on a number of factors including economic infeasibility.

With respect to the costs of the Bolsa Chica alternative, it is a matter of public record that the Bolsa Chica site is one of the most expensive pieces of land in Orange County, as amply demonstrated by the costs that the federal government is planning to pay for acquisition of the

wetlands. Nothing in the record suggests that the site is available for sale or that the jail could even be approved under the Coastal Act.

The alternative of establishing a jail at the Aliso Woods Canyon's Regional Park is adequately described. State law and the NCCP prevent the use of this site. State law provides that location of jails of this type in park sites constitutes an abandonment of the park.

COMMENT 247: The commentor does not suggest that any part of the Bowerman Landfill or Prima Deshecha Landfill is available. The landfill property is not structurally stable for buildings, if it is assumed that the commentor is proposing that the jail be established on the area comprising the landfill. This is also true with the Bowerman Landfill.

With respect to the alternative location for housing of minimum security inmates at Musick if the facility were built at one time, this would be a difficult but feasible arrangement within the central jail in Santa Ana. However, a component of the Musick Jail site would need to be operational to accommodate maximum security inmates.

The commentor makes a number of assertions regarding reductions in environmental effect in Alton Parkway and does not explain on what basis the reduction in environmental effects is possible. The EIR amply states that whether a half section or a full section of Alton Parkway is built, the impacts to the wetlands are virtually the same. There is nothing in CEQA that suggests that micro-alternatives on aspects of the project be generated.

With respect to the ICF, the ICF is not located in the "yard" of the jail. The operators of the ICF asked that the Musick site be considered for the ICF, even though it is not an optimal site for a healthcare agency. Although the EIR could have responsibly avoided discussion of this very tentative proposal for relocating the ICF to this facility, the EIR nonetheless chose to treat the ICF as an element of the proposed project, not a required facility by law. It is a highly desirable facility because of its important therapeutic purposes. However, it is not an absolutely required facility.

When the Theo Lacy EIR was prepared, it was thought that the ICF would move to the Tustin base. It is still possible that this will occur, but it was intended by the County to consider it at this location, even if there was the *possibility* that it might be located there.

COMMENT 248: Please see the "Cumulative Impacts" section in the Foreword to the Responses to Comments.

The commentor completely overlooks the portion of §15130 of the CEQA Guidelines which indicates that cumulative impacts are only discussed *where significant*. Therefore, the rest of the commentor's assertions fail because cumulative impacts simply are not significant. The traffic and other technical studies dependent on traffic completely considered all of the projects and the General Plan of the area, and thus satisfy the cited portion of §15130.

For a "reasonable analysis of the cumulative impacts of relevant projects," the EIR incorporates by reference the Reuse Plan EIR. This is a particularly effective strategy and accepted under CEQA, if only for the reason that both EIRs are being circulated at the same time and the Reuse Plan EIR specifically considers the Musick Jail project. The effect is a reciprocal one; The EIR for the Musick Jail project specifically described the El Toro Reuse Plan EIR's results, observing that the vast difference between the relative impacts makes the jail impact negligible. Therefore, the cumulative impacts assessment is completely adequate.

Notable among the commentor's assertions is the absence of any allegation that there will be cumulative effects. Contrary to the commentor's assertion, the DEIR's argument regarding impacts being not cumulatively significant is based on the fact that they are small in relationship to the Reuse Plan. This is adequately demonstrated in the EIR.

For further response, the reader is referred to the response to Comment 1 from the letter of OCTA.

COMMENT 249: Recirculation is not required in this case. The commentor has provided no basis for assuming that there is any evidence of impact, of the fact that the public is deprived of a meaningful opportunity to comment, or that there will be an increase in the severity of the impacts. The CEQA Guidelines were amended over the last few years to address recirculation specifically. None of the standards for recirculation stressed in the Guidelines have been breached in this project. The basis for significant new information requiring recirculation is all based on the concept that information in the EIR is not adequate to take account of all of the impacts. In spite of the lengthy comment of the City of Lake Forest, the County has amply demonstrated that these comments amount to mere disagreement over the results of the study. Even if all of the comments of the City of Lake Forest were undertaken in a newly recirculated EIR, there is nothing to indicate that any seriously different environmental picture would be presented. Basically, the City of Lake Forest merely asserts that the conclusions in the EIR are wrong. CEQA requires

considerably more for recirculation. Therefore, the demand for recirculation is rejected by the County.

As to the assertion that the EIR is so inadequate as to deprive the public of meaningful comment, it is noteworthy that this EIR has received a robust amount of public comment, mostly focusing on socioeconomic effects in opposition to the project. But for the City of Lake Forest letter and one or two others, no commentor has seemed to have much difficulty understanding the effects of the project. Therefore, the County believes that this is just one aspect of this process that indicates that the public has not been deprived of a meaningful opportunity to comment.

Whenever a project is highly controversial, one must always expect attacks on the compliance with CEQA. It is no surprise that comments in this letter "second guess" the conclusions in the EIR. However, CEQA requires more. CEQA anticipates that there will be debate on environmental issues. *What CEQA requires — and what is clearly provided in this EIR — is the necessary information under CEQA to address the debate over physical environmental effects.*

COMMENT 250: For reasons explained elsewhere in the response to these comments, referral to the Airport Land Use Commission is not required.

ATTACHMENT 4

001245

PUBLIC INFORMATION MEETINGS

Public information meetings were held in Lake Forest and Irvine to provide additional opportunities for participation in the CEQA process. The Lake Forest meeting was held on September 24, 1996 within Charger Hall at El Toro High School. The Irvine meeting was held on September 25, 1996 within the Council Chambers of the City of Irvine Civic Center. Each meeting consisted of a brief presentation by County staff and the County's consultant providing a description of the proposed project, an explanation of the EIR process, and work completed to date. Following the presentation, opportunity was provided for public comments and concerns relating to the environmental documentation for the project.

This section summarizes the participating commentators and their voiced concerns generated from the meetings. Concerns and comments shared at these meetings have been grouped into the following categories:

1. Economic Impacts
2. Public Safety
3. Alternatives
4. CEQA Compliance
5. Notice
6. Time for Review
7. Selection of Consultant
8. Cumulative Effect/Reuse Plan
9. ICF/Emotionally Disturbed Youths
10. Houses/Proximity to Jail
11. Schools/Proximity to Jail
12. Traffic
13. Undesirable Secondary Uses (e.g., "Bail Bondsman")
14. Groundwater Effects
15. Former Promises not to Expand
16. Releases at IRC
17. Routing of Busses
18. Visual Impacts
19. Mental Impacts to Residents
20. Light/Glare Impacts

The following two tables, one for each meeting, identify the commentator and the number(s) corresponding to the category of concerns and issues each raised.

**Public Information Meeting in Lake Forest
September 24, 1996**

Commentator	Comments/Concerns
Mayor Dixon, City of Lake Forest	1, 3, 4, 6, 7, 15
Marcel Fernandez	1, 12
Fred Jenner	1
Steve Smith	2
Jeff Moller	2, 11, 16
Andrea Estrin	2, 9, 16
Cliff Carpenter	2
Ed Simignano	1, 2, 10, 11
Jim Breese	19
Kathy Breese	3
Gayle Peters	2, 3
Bill Grey	3, 4
Lisa Bogan	2
Jim Richert	3, 4, 7, 8, 12, 13
Marcia Rudolph	6, 14, 20
Faith Newman	2, 3
Ed Broderick	2, 3, 10
Debbie Morines	2
Jill Burnett	1, 3
Susan Miller	1, 3, 8, 10, 15
Diane Brooks	3, 8, 12, 16
Todd Spitzer	3, 4, 7, 10, 15
JoAnn Hurt	1, 2, 3
Anne Edwards	2, 11
Ken Weber ¹	3, 4

001247

¹This gentleman stated he could not be at the public meetings of the Planning Commission and Board of Supervisors, and requested that his testimony be passed on.

Helen Wilson, Mayor Pro Tem, City of Lake Forest	2, 4, 11
Todd Tilk	1, 3
Margie Matsil	2
Kathryn McCullough	1, 2, 3
Paul Kolter	1, 2, 3
Bob Hoyer	2, 3
Conception Valdez	2, 3
Roy Brendt	4, 7, 8, 11
Manny Solis	15
Gordon Koll	3

**Public Information Meeting in Irvine
September 25, 1996**

Commentator	Comments/Concerns
David Melvold	2, 3, 12, 16, 17
Paul Johnson	2, 3, 4, 8, 12, 18
Chau Tran	3, 4, 12
Peter Hersh	1, 2, 3, 8, 12, 16

001248

ATTACHMENT 5

001249

00100

COUNTY OF ORANGE, CALIFORNIA

DATE OF ADOPTION:

Proposed Final EIR 564 for the James A. Musick Jail Facility
RE: Expansion

October 15, 1996

WHEREAS, the County of Orange seeks to expand the existing facilities at the James A. Musick Jail Facility; and

WHEREAS, Draft EIR 564 for the James A. Musick Jail Facility Expansion was prepared pursuant to the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the County's environmental analysis procedures; and public review and comment periods were provided in conjunction with the distribution of both the Notice of Preparation and the Draft EIR; and

WHEREAS, Draft EIR 564 for the James A. Musick Jail Facility thoroughly analyzes and documents existing environmental conditions and significant environmental impacts of the proposed expansion; and

WHEREAS, the Planning Commission of the County of Orange conducted a public meeting on October 15, 1996 to receive public comments with respect to Draft EIR 564.

NOW, THEREFORE, BE IT RESOLVED THAT this Commission finds and recommends to the Board of Supervisors that the proposed Final EIR 564 is adequate, and that it was prepared in compliance with CEQA and the County's Environmental Analysis Procedures.

AYES: Commissioners:

Noes: Commissioners:

Absent: Commissioners:

I HEREBY CERTIFY that the foregoing Resolution No. 96-06 was adopted on October 15, 1996 by the Orange County Planning Commission.

John B. Buzas, Executive Officer
Orange County Planning Commission

BR:sf
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ATTACHMENT 5